

**TASK FORCE TO  
REVIEW THE  
COMPLAINT SYSTEM FOR  
PERSONS WITH DISABILITIES**

**Final Report**

**September 2002**

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PERSONS WITH DISABILITIES***

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***TASK FORCE TO REVIEW THE COMPLAINT SYSTEM FOR  
PERSONS WITH DISABILITIES***

**Membership List**

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***Charlotte Bowen***

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# ***TASK FORCE TO REVIEW THE COMPLAINT SYSTEM FOR PERSONS WITH DISABILITIES***

## **EXECUTIVE SUMMARY**

HB 2356 created the Task Force to Review the Complaint System for Persons with Disabilities in 2000. Pursuant to HB 1401, the Task Force was extended in 2001. The purpose of the Task Force was to conduct a thorough review of the procedures and processes for reporting and resolving complaints regarding access to programs and services by persons with disabilities and their families within various governmental entities in Oklahoma and to recommend any changes necessary to improve the delivery system based on the Task Force's findings.

The Task Force was assigned to:

- Identify the gaps and barriers to accessing services for persons with disabilities in this state;
- Examine and assess current grievance procedures and hearing processes utilized by governmental entities to resolve complaints filed by, or on behalf of, persons with disabilities;
- Review the number, types, and nature of such complaints;
- Evaluate the response time of governmental entities to resolve complaints;
- Evaluate the time period for resolution of complaints or grievances;
- Assess client/consumer satisfaction with regard to current grievance procedures and hearing processes; and
- Recommend improvements, if deemed necessary, to the complaint system procedures utilized by governmental entities, concerning persons with disabilities, including, but not limited to:
  - A. Modification of existing policies,
  - B. Rules, and
  - C. Guidelines and procedures governing the complaint system.

The Task Force membership established four subcommittees. They included:

- Education,
- Residential/Employment/Independent Living,
- Medicaid Reimbursement/Health, and
- Community Services.

Two of the four Subcommittees regularly met and submitted their findings and recommendations which are contained in this final report.

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STATE OF OKLAHOMA  
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**COMMITTEE:**

**CHAIRMAN:**  
Mental Health

**MEMBER:**  
Human Services  
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Small Business  
Transportation

## **PREFACE**

Attached is the final report from the Task Force to Review the Complaint System for Persons with Disabilities. The Task Force was created during the Second Session of the Forty-seventh Legislature in 2000 pursuant to HB 2356. The Task Force was extended until June 30, 2002, during the First Session of the Forty-eighth Legislature pursuant to HB 1401 in 2001.

The mission of the Task Force was to conduct a thorough review of the procedures for reporting and resolving complaints regarding access to programs and services by persons with disabilities within various government entities in Oklahoma. The Task Force was also required to recommend any changes necessary to improve the delivery system based on its findings.

To complete this mission, the Task Force was given seven goals:

- Examine and assess current complaint/grievance procedures and hearing processes utilized by governmental entities with regard to complaints/grievances filed by or on behalf of persons with disabilities;
- Review the number, types and nature of such complaints;
- Evaluate the response time of governmental entities to such complaints/grievances and the time period for resolution of such complaints or grievances;
- Assess client/consumer satisfaction with regard to current complaint/grievance procedures and hearing processes;
- Identify and assess gaps and barriers to access to services for persons with disabilities in this state;
- Recommend improvements to the complaint/grievance system procedures used by governmental entities for persons with disabilities including, but not limited to, modification of existing policies, rules, guidelines and procedures governing the complaint/grievance system; and
- Perform all other tasks necessary to accomplish the purposes of the enacted legislation.

In accordance with HB 1401 and HB 2356, the Task Force divided into subcommittees. These four subcommittees included:

- Education,
- Residential/Employment/Independent Living (REIL),
- Medicaid Reimbursement/Health, and
- Community Services.

The full Task Force met a total of 17 times during its existence.

The Task Force was able to complete the examination and assessment of the Educational Agencies because of the hard work of the Educational Subcommittee lead by Linda Jaco. The REIL subcommittee, headed by James Sirmans, also met and information regarding their deliberations is contained in this final report. The other subcommittees did not meet on a regular basis nor did they make any recommendations.

On the whole, the Task Force recognized that services provided to persons with disabilities by more than one agency are often fragmented and have barriers caused by lengthy paper work and reviews. For this reason, the Task Force was unable to provide a total comprehensive report that addresses many of the needs of persons with disabilities.

In some instances, the final report may appear to be negative, but I believe that the report is a fair, accurate and balanced accounting of the complaint/grievance delivery system in Oklahoma. In general, when a person is not happy with goods or services they receive, the process begins with a complaint. The filing of a complaint can produce a positive response if the process is expeditious, user friendly and tailored to meet the needs of the person with the disability and their families.

Regarding certain comments and recommendations contained in this final report, it is my understanding that the Oklahoma State Department of Education (OSDE) may be issuing a response. You may wish to contact John Corpolongo with OSDE if you are interested in OSDE's response. Mr. Corpolongo's phone number is (405) 521-4873. Further, the Oklahoma Office of Handicapped Concerns (OHC) has completed a statewide survey to determine the needs of Oklahomans with disabilities. For information concerning the OHC survey, you may call Steven Stokes, Director, at (405) 521-3756 or receive a free copy from their web site, [www.ohc.state.ok.us](http://www.ohc.state.ok.us).

Lastly, the information contained in this final report came from a variety of sources. I want to thank those persons whose contributions made this report, the Task Force members, the many persons who participated in the meetings, the presenters, and House staff for their hard work and dedication to a very important study.

Sincerely,

Al Lindley  
State Representative  
District 93

***TASK FORCE TO REVIEW THE COMPLAINT SYSTEM  
FOR PERSONS WITH DISABILITIES***

**Education Subcommittee Members**

*Linda Jaco, ABLE Tech (Chair)*

*Steve DeGuisti, Parent (Vice-Chair)*

*John Corpolongo, Common Education*

*Tom Bell, Designee: Common Education*

*Melanie Eick, Career/Technology*

*Ned Bastow, Higher Education*

*Janice Hendryx, Oklahoma Commission on Children and Youth (OCCY)*

*Sue Norris, Designee: OCCY*

*James Sirmans, Client Assistance Program*

*Larry Bishop, Department of Rehabilitation Services*

*Steve Stokes, Office of Handicapped Concerns (OHC)*

*Harold Skinner, Designee: OHC*

*Robin Swaim, Advocate*

*Sue Keller, Parent*

*Amy Corley, Parent*

*Diane Cranton, Parent*

*Donna Botts, Parent*

# Education Subcommittee Findings

The Education Subcommittee of the Task Force to Review the Complaint System for Persons with Disabilities examined the following educational entities:

## A. Common Education

## B. Career and Technology Education

## C. Higher Education

The Subcommittee gathered information on the grievance procedures of the three educational systems and studied the existing gaps in service delivery that pose specific barriers within each of these systems for students with disabilities.

### A. Common Education

Over a quarter century ago, Congress enacted historic legislation seeking to ensure educational equity for children with disabilities and special needs. This legislation, now known as the Individuals with Disabilities Education Act (IDEA), was a major milestone in the quest to end the chronic exclusion and miseducation of students with exceptional needs. It helped open the door to fairness and access for millions of such students and paved the way to greater educational success for many of them during the past 25 years. Not every change it brought about, however, has turned out to be positive. Although it has helped address many education challenges, it has created some too.

Only in the past few years has Washington's share of special education funding risen higher than about 12%, despite Congress' 1975 promise to pay 40% of the incremental costs of educating students with disabilities pursuant to federal mandates. Meanwhile those mandates, elaborated by Congress, the Education Department, and the federal courts, have steadily raised the financial obligation of states and school districts. And, adding to this, the number of students receiving special education services has soared. The IDEA has succeeded in extending public education to millions of students who previously had received an inappropriate education or none at all. Complaints about special education are widely voiced. These complaints not only come from local and state education officials, but also from teachers, parents, and advocates for the disabled (i.e., inability to access appropriate evaluations in a timely manner).

At present, Oklahoma serves approximately 88,000 students with disabilities across 544 local school districts. The IDEA requires that these students with disabilities receive:

A free appropriate public education (FAPE) for children ages 0-21; education as close to home as possible (Least Restrictive Environment – LRE); supplemental services (i.e., speech therapy, assistive technology, classroom aide) to complete their education; and an assessment to determine the student's needs. In order to

assure that students receive an appropriate education, this law includes two protections:

Individualized Education Program (IEP) and Due Process.

The Subcommittee's findings revealed the following problems and/or barriers that exist within the current system in addition to the financial constraints already outlined.

### ***Section I***

#### **Lack of Coordination between Agencies Serving Families of Students with Disabilities**

### ***Section II***

#### **Lack of Knowledge and Training in Professionals Who Identify and Serve Students with Disabilities**

- a) **Lack of Information on Various Disabilities among Professionals Who Serve Students with Disabilities**
- b) **Lack of Trained Personnel to Educate Students in Special Education**
- c) **Lack of Pre-Service and In-Service Training on IDEA and Its Implementation**

### ***Section III***

#### **Lack of Monitoring to Assure Local Compliance with IDEA**

### ***Section IV***

#### **Lack of Investigation and Resolution of Complaints**

### ***Section V***

#### **Lack of Legal Systems to Represent Families/Students Being Served Under IDEA**

These barriers create much of the impetus that ultimately results in the complaints within the system. If we hope to be successful in overcoming these problems, there will need to be a coordinated systemic effort that focuses on educational outcomes for students. Federal legislation ensuring that no student is left behind is an important principle. It is time to ensure that this principle translates into better outcomes for students with special needs. A major overhaul of special education is needed to ensure that the original goal of offering an appropriate education to all children is reached.

## **B. Career and Technology Education**

The Oklahoma Department of Career and Technology Education (ODCTE) offers programs and services in:

1. 29 technology center districts operating on 54 campuses,
2. 398 comprehensive school districts,
3. 25 skill centers, and
4. 3 juvenile facilities.

The ODCTE has three processes by which compliance with the federal regulations for civil rights is monitored. These processes include:

1. On-Site civil rights reviews,
2. Program evaluations, and
3. Individual complaints.

These procedures are used in:

1. Local technology centers,
2. Skills center programs,
3. Common school districts which have career and technology education programs, and
4. Postsecondary institutions that receive Carl Perkins funding through the ODCTE.

All technology center programs have independent responsibility for the development of a grievance procedure in accordance with:

1. Title VI of the Civil Rights Act of 1964,
2. Title IX of the Education Amendments of 1972,
3. Section 504 of the Rehabilitation Act of 1973, and
4. The Americans with Disabilities Act of 1990.

In short, there is likely to be some variation found within grievance procedures from site to site with some center procedures being more comprehensive than others. Therefore, there is no uniform set of established grievance procedures that exists for Career and Technology Education Centers statewide.

### **C. Higher Education**

The Oklahoma State Regents for Higher Education is the statewide coordinating board of control for the state's 25 colleges and universities, 10 constituent agencies and two higher education programs. The State Regents prescribe academic standards of higher education, determine functions and courses of study at state colleges and universities, grant degrees, recommend to the state Legislature budget allocations for each college and university, and recommend proposed fees within limits set by the Legislature.

Different laws apply for students as they transition from high school to college. The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 are very different, often leading to miscommunication between college and high school staff who have studied only the statutes applying to their institution.

**High School****Post-Secondary**

<b>High School</b>	<b>Post-Secondary</b>
Individuals with Disabilities Education Act (IDEA)	Section 504 of the Rehabilitation Act of 1973
Section 504 of the Rehabilitation Act of 1973	Americans with Disabilities Act
Americans with Disabilities Act	Civil Rights Restoration Act
Civil Rights Restoration Act	

The Oklahoma Constitution authorized the establishment of Boards of Regents at each higher education institution. In turn, each institution facilitates its own Board of Regents that has independent responsibility for the development of a grievance procedure at that institution. Therefore, there is no uniform set of established grievance procedures that exists for Higher Education facilities statewide.

## A. Common Education

### *Section I*

#### **LACK OF COORDINATION BETWEEN AGENCIES SERVING FAMILIES OF STUDENTS WITH DISABILITIES**

*It is important that the Oklahoma State Department of Education coordinate with other Oklahoma human service agencies and the local school districts to ensure that students with disabilities are receiving the appropriate services. It is equally important that the child's parent(s) be included in the coordination process.*

The membership of the Education Subcommittee was comprised of a variety of advocates. The advocates were from public and private entities which routinely receive complaints regarding the inability of families to access special education services for their children. The special education services are defined by the Individuals with Disabilities Education Act (IDEA) guidelines and should be available in all Oklahoma schools. Additionally, parents of children with disabilities served on the task force. Other parents, advocates, or representatives from Oklahoma agencies would intermittently attend the meetings. This was an important component as they were able to share with the task force their concerns and frustrations from their experiences when dealing with their local school districts and/or the Oklahoma State Department of Education (OSDE).

Under HB 2356, a task force was appointed. This task force authorized a survey to be conducted. The survey was sent to everyone who had filed a formal grievance and/or complaint with a state agency that provides services to children with disabilities. Of the thirty-eight surveys that were completed and returned, twenty-nine of these addressed special education issues.

A common pattern of responses was noted in the survey results. Parents often indicated they felt they were not provided with correct information when communicating with the schools. This was further substantiated by information shared with the subcommittee. Parents stated they felt filing a complaint with the Oklahoma State Department of Education did not provide enough help in resolving issues of concern with their local school districts. Some examples from the survey, which were also confirmed by feedback from subcommittee members, included:

1. Due Process Hearing Complaints were not handled in a timely manner. One such example stretched over a 2-year time span, during which the child in question attempted to commit suicide.
2. Formal IDEA Complaints were often superficially investigated. Important facts and evidence were completely overlooked and not addressed.
3. Parents often believed their disabled child was belittled.

4. Parents often believed they, as well as their disabled child, were harassed.  
*Example:* Police were notified regarding the behavior of a nine-year-old child who has Autism. The child's behavior was clearly related to his disability.
5. Parents often felt they, as well as their disabled child, were retaliated against by school personnel.  
  
*Example:* Parents have had bogus reports of neglect and abuse turned into Child Welfare Services.
6. Parents frequently reported their local school districts and the OSDE did not have an unbiased or objective attitude about their complaints.
7. Parents believe school personnel are not held responsible for their actions by their local school districts or by the OSDE.  
  
*Example:* A student with disabilities was molested by another student. The teacher received no consequences for failure to supervise her students. The parents of the molested child chose to move to another school district.
8. Parents, who participated in the survey, as well as subcommittee members, stated that the school districts had purposely misrepresented facts in their responses to complaints and in the due process hearings.
9. Parents believe the structure of the complaint investigations, and the due process hearings, are heavily weighted on the school districts' behalf.
10. Parents stated they often did not have access to legal counsel.
11. Parents were equally distraught by the fact that the fees of the attorneys for the school districts are paid by taxpayer's monies.
12. Survey participants, as well as subcommittee members, reported that the complaints in the due process hearings were not resolved by an independent third party. They are administratively scheduled and managed by the Oklahoma State Department of Education. At the very least this gives the perception that the outcome of the due process and formal IDEA complaints are settled in favor of the school districts and the OSDE. In some, if not all cases, the child was not made the focus of the hearings, and services were not provided to the child.
13. In reviewing further information submitted to the task force regarding communication and collaboration, other areas of concern were expressed. Some of these areas included:

Recruiting educated and informed participants to serve on committees and task forces. When designees are unfamiliar with a subject, and/or do not have the authority to participate in a meaningful way:

- a. It is difficult for the committee to move forward;
  - b. It is difficult to move to an appropriate resolution; and
  - c. It is harder to enact appropriate change.
14. While educational staff at both the local and state level are willing to volunteer to serve on various task forces, committees, or panels, they frequently are not familiar enough with the subject matter to participate in any meaningful way.
15. Finally, various agency personnel and subcommittee members indicated it was difficult to provide continuity and momentum, and maintain committee member attendance to any committees concerning education issues, when the educational staff was not meaningfully invested in the process.

## **Recommendations**

An Independent Oversight Panel comprised of:

- a. Persons meeting at least quarterly,
- b. Chair to be elected by a quorum at the first meeting,
- c. Parents of Special Education students to participate,
- d. One attorney (whose emphasis is Special Education Law and advocates for services for the child) to participate, and
- e. Additional members from the children’s service system (not to exceed 10 in number and must be appointed by the Oklahoma Commission on Children and Youth) to participate.

The oversight advocacy panel is charged with coordination of education procedures and implementation of the recommendations made by the Education Subcommittee of HB 2356 and HB 1401.

## **REFERENCES**

- ✓ The survey results referenced in this report were taken from “Task Force to Review the Complaint System for Persons with Disabilities.”

## *Section II*

### **LACK OF KNOWLEDGE AND TRAINING IN PROFESSIONALS WHO IDENTIFY AND SERVE STUDENTS WITH DISABILITIES**

- a. Lack of Information on Various Disabilities among Professionals Who Serve Students with Disabilities

*It is imperative that professionals be better educated in the proper identification of children with disabilities in order that the children receive the appropriate services and accommodations needed to educate them.*

Oklahoma serves approximately 88,000 students with disabilities across 544 local school districts.

### **Oklahoma State Department of Education Total Number of Children Receiving Special Education**

Report Date: 06/03/2002

Disability	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	Total
AU	5	4	12	87	78	95	90	85	75	61	52	27	32	34	26	19	15	6	0	806
DB	1	1	1	2	0	0	1	0	0	2	1	2	3	1	0	4	1	1	0	21
DD	938	1719	2340	655	633	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6285
DEAF	2	11	10	20	24	25	24	26	28	21	18	24	18	19	16	20	7	0	0	313
HI	4	10	11	31	29	36	36	41	36	43	45	38	49	47	42	22	9	1	1	531
MD	16	21	20	97	118	129	134	122	129	126	128	85	109	116	91	83	41	35	16	1616
MR	13	18	31	233	299	509	608	653	699	740	707	745	732	708	664	463	153	35	22	8032
OHI	11	14	21	126	206	361	397	365	469	437	399	365	324	260	213	109	31	0	0	4108
OI	1	8	9	33	41	63	45	42	36	33	21	30	34	29	25	21	6	0	0	477
SED	2	5	4	47	130	231	328	363	437	501	512	445	787	436	320	157	39	6	0	4450
SLD	14	15	18	302	807	2016	3298	4231	4829	5068	5008	4740	4484	4156	3618	2395	456	27	3	45485
SLI	217	450	712	2399	2713	2572	2219	1617	979	532	282	150	93	48	35	13	5	0	0	15037
TBI	0	1	1	9	4	12	18	15	22	23	18	26	20	27	26	14	4	4	0	244
VI	6	7	10	28	16	21	28	30	33	27	30	35	32	39	32	16	6	0	0	396
TOTAL	1230	2284	3200	4069	5098	6070	7226	7590	7775	7614	7222	6712	6417	5920	5108	3336	773	115	42	87801

### **Oklahoma State Department of Education – Special Education Child Count System**

**Key\*:** AU (Autism), DB (Deaf/Blindness), DD, (Developmentally Delayed), DEAF (Deaf), HI (Hearing Impaired), MD (Multiple Disabilities), MR (Mental Retardation), OHI (Other Health Impaired), OI (Orthopedic Impairments), SED (Serious Emotional Disturbance), SLD (Specific Learning Disability), SLI (Speech Language Impaired), TBI (Traumatic Brain Injury), VI (Vision Impairment)

The IDEA requires that these students receive a “free appropriate public education” (FAPE) in the “least restrictive environment” (LRE). Critical components of the law include:

1. Requirements for an initial evaluation to determine eligibility for services and accommodations,
2. Individual education planning (IEP),

3. The provision of individualized services, and
4. Procedural safeguards to ensure the active involvement of a child's parents.

Among states, there are differing systems for carrying out the federal mandate to identify, classify, and provide services for children with disabilities. Within Oklahoma education services, there is inconsistency regarding these students from district to district. Generally, in wealthier suburban districts where parents have access to attorneys, advocates, and outside specialists, most referred children do qualify and receive services. However, in inner cities or rural areas where parents have less access to advocates, children with disabilities are more likely to be refused special education services.

The IDEA has been largely successful in opening up education opportunities for children with disabilities. As required by the IDEA and its implementing regulations, the special education system is predicated upon first classifying students into one or more federally defined disability categories. Children are, usually, initially referred for classification because they are having difficulties in school. Once classified, students are then provided special education services and accommodations. Because of the inconsistent criteria used from district to district, children who qualify in one Oklahoma school district may not be eligible for services in a different district. If children do not meet the district's criteria for eligibility, they do not receive special education services or accommodations.

Nationally, more than 10 percent of all school children in grades K-12 are in the special education system. In 1999-2000, 6.1 million children, ages 3-21 years, were found eligible for special education services and accommodations, up from 3.7 million in 1976-77 – an increase of 65 percent. With such an increase in the numbers of children receiving special education, it is now even more important for professionals to be knowledgeable about various disabilities in order to provide a more cost-efficient system with improved educational outcomes for students.

b. Lack of Trained Personnel to Educate Students in Special Education

*It is imperative that Oklahoma recruit and train high quality individuals to become educational professionals.*

As a cornerstone of education reform, the historic “No Child Left Behind Act” that President Bush signed into law in January 2002 required that, by the end of the 2005-2006 school year, there be a “highly qualified” teacher in every classroom. This reality is even more imperative in our special education classrooms.

Over the next decade, school districts will need to hire 2.2 million additional teachers. In Oklahoma, we face the challenge of attracting a greater quantity of people to the teaching profession (at a time during which many professionals of the “baby boomer generation” are retiring) while also ensuring teacher quality.

A recent survey by the U.S. Department of Education found that fewer than 36 percent of current teachers feel “very well prepared” to implement curriculum and performance standards, and less than 20 percent feel prepared to meet the needs of diverse students enrolled in special education or those with limited English proficiency.

There are three distinct populations of children currently receiving special education services:

1. Those with significant developmental disabilities and sensory and physical handicaps,
2. Those with milder forms of neurological conditions, such as learning disabilities and Attention Deficit Disorder (ADD), and
3. Those with conduct or behavioral problems.

Each one of these categories requires a great deal of educational expertise in order for the child to reach his or her full potential.

Professionals must be adequately trained on both the curriculum and technological needs of special education students for the purposes of assessment and education. Meaningful education outcomes depend upon a functional analysis of each child's needs along with realistic, achievable, and measurable goals in each child's individualized education program (IEP). The curricula must provide the student with ongoing opportunities to develop the necessary life skills that will allow the student to transition from school to meaningful postsecondary experiences.

c. Lack of Pre-Service and In-Service Training on IDEA and Its Implementation

*It is imperative that all interested parties effectively partner to make IDEA successful.*

A quarter century ago, President Ford signed historic legislation seeking to ensure educational equity for children with disabilities and special needs. This legislation, now known as the Individuals with Disabilities Education Act (IDEA), was a major milestone in the quest to end the chronic exclusion and miseducation of students with exceptional needs. It helped open the door to fairness and access to education for millions of such youngsters. It has paved the way to greater educational success for many of these children during the past 25 years.

The IDEA is a complex law written to level the educational playing field for students with disabilities. Rigorous and strict enforcement of IDEA required a partnership effort by parents, students, school officials, and educators. With each reauthorization, the law is amended and new regulations are written. This evolving process necessitates that all partners seek educational opportunities to maintain sufficient knowledge and a level of expertise for successful implementation.

It goes without saying that parents should assume and exercise full responsibility for maintaining the integrity of these children's special education entitlements (i.e., parents should actively participate in the development of their children's individualized education programs). Parents should be partners with the schools so that they can maintain an active role in educational decision-making activities related to their children's progress (i.e., parents should work collaboratively with schools to place their children in the least restrictive and most appropriate settings). Parents should participate as advocated in local, state, and federal school reform initiatives.

Students with disabilities, whenever appropriate, should become active participants in the design and implementation of their educational programs. Students with disabilities, whenever appropriate, should participate in evaluations of their educational programs. Students with disabilities, whenever

appropriate, should participate in planning for their transition from school to adulthood to ensure a satisfactory quality of life.

State/local education agency personnel must ensure that they establish and maintain effective partnerships with parents. They should facilitate ongoing, two-way communication. This should include full and clear information about student and parent rights under federal and state special education laws. Systemwide, administrators must provide continuous, state-of-the-art in-service training for regular education instructional staff. This would serve to guarantee successful and full inclusion of students with disabilities into regular classroom settings.

Higher education personnel must develop preservice teacher training programs. These should be based on proven teacher preparation practice. This should be in collaboration with state/local education agencies. It should also be based on school districts that meet the unique and diverse needs of these student populations. State and local school districts must ensure that their personnel become familiar with available and appropriate community resources. These resources help facilitate successful transitions of students with disabilities to adult life.

## **Recommendations**

1. Mandatory university classes covering IDEA for students working towards a teacher's certificate.
2. Mandatory training in identifying students with disabilities for all teachers currently employed in Oklahoma school districts.
3. Mandatory continuing education classes for all teachers currently certified. These classes should be on a University level, and teachers should be given credit hours.
  - a. Continuing education must focus on best practice procedures and updated legal requirements.
  - b. Teachers must develop a proficiency in understanding education evaluation tools. They must be able to apply evaluation outcome data in developing an Individual Education Program (IEP).
  - c. Teachers need to develop a proficiency in special education laws and how to apply them.
  - d. Teachers must develop a proficiency in teaching methods specific to the identified disability with an emphasis on IEP development and behavior analysis.
  - e. Teachers must be able to discern whether the behavior problem is due to:
    - i. A student's disability,
    - ii. A student not yet identified or diagnosed with a disability, or
    - iii. Misbehavior being reinforced by incorrect teaching methods to address a particular disability.
4. The Commission on Teacher Preparation and the State Department of Education are required to develop one set of standards to hold teachers accountable for mandatory training requirements and teaching proficiencies.

5. Information concerning identifying students with disabilities should be sent to each student's home at the beginning of the year. This information should include signs a parent or guardian should be watching for, to include, but not be limited to:
  - a. short attention span,
  - b. not reading on grade level, and
  - c. not performing on grade level.
6. Develop a more comprehensive Child Find System that provides ongoing public awareness and referral for identifying, locating, and evaluating children of all cultures.
7. Provide information and advocacy resources to families who speak a language other than English.
8. Develop resources to ensure that interpreter services are available to non-English speaking families.

### **REFERENCES**

- ✓ *Rethinking Special Education for a New Century*, Chester E. Finn, Jr., Andrew J. Rotherham, and Charles R. Hokanson, Jr., Editors: Published by the Thomas B. Fordham Foundation and the Progressive Policy Institute.
- ✓ *No Child Left Behind: What Will it Take?* Papers Prepared for a Conference Sponsored by the Thomas B. Fordham Foundation.
- ✓ *Serving the Nation's Students with Disabilities: Progress and Prospects*, A Report to the President and the Congress of the United States, National Council on Disability.
- ✓ *Students with Disabilities: Transition from High School to College*.

## *Section III*

### **LACK OF MONITORING TO ASSURE LOCAL COMPLIANCE WITH IDEA**

*A strong State monitoring process is crucial to improving educational results for children with disabilities. If state monitoring is lax, noncompliant practices emerge at the local level.*

1. The OSDE conducted **526** special education on-site compliance monitoring reviews during the course of the four school years from 1993 to 1997.
2. The OSDE conducted **39** special education on-site compliance monitoring reviews during the course of the four school years from 1997 to 2001.
3. As of May 17, 2002, the OSDE had finalized one special education on-site compliance monitoring review, for the 2001-2002 school year.

In 1993, the Oklahoma State Board of Education adopted extensive procedures for conducting on-site compliance reviews for special education<sup>1</sup>. The Oklahoma State Department of Education (OSDE) was required to annually conduct a comprehensive compliance review of approximately 25% of the state's schools.

Following the enactment of the IDEA Amendments of 1997, the OSDE *discarded* the 1993 Oklahoma State Board of Education adopted monitoring policies and procedures. This was done without first ensuring that an effective monitoring system was in place.

The Oklahoma 2000 Single Audit Report<sup>2</sup> noted that the OSDE did not have an ongoing monitoring process or written procedures for performing program monitoring. The OSDE procedure was to review only schools for which a complaint was received. The State Auditor's Office reported that of the 26 schools scheduled to be reviewed in fiscal year 2000, only nine were actually completed.

*The State Auditor's Office recommended the OSDE establish and implement policies and procedures for program monitoring to ensure that routine on-site reviews of all school districts are performed.*

In response to the State Auditor's 2000 report, the OSDE proposed implementing an ongoing monitoring process modeled after the US Department of Education's IDEA "Continuous Improvement Monitoring Process" (CIMP). These proposed monitoring procedures called for **ALL** Oklahoma school districts to conduct a self-assessment **EACH YEAR**, and as necessary, the OSDE would conduct on-site reviews at the schools.

However, the Oklahoma 2001 Single Audit Report<sup>3</sup> indicated the CIMP monitoring procedures proposed as corrective action by the OSDE were not yet in use. In fact, no self-assessments were done. The State Auditor's Office noted that the OSDE had conducted only thirteen comprehensive review monitorings, during fiscal year 2001.

*The State Auditor's Office recommended that until the OSDE proposed self-assessment procedures are fully implemented, the OSDE must ensure that an adequate number of schools receive comprehensive review monitorings each year. The State Auditor's Office believed that the 1993 Policy of the OSDE conducting comprehensive review monitoring in 25% of the schools to be adequate.<sup>4</sup>*

Upon review of the OSDE Special Education monitoring activities for the current 2001-2002 school year, the following may be noted:

1. In early 2002 the OSDE began piloting the self-assessment monitoring process in 35 pilot schools. Briefly, the pilot self-assessment consists of 42 questions for the schools to answer. These pilot self-assessments are scheduled to be completed and returned to the OSDE by June 21, 2002.
2. As of May 17, 2002, the OSDE had finalized one of 26 special education on-site compliance reviews it had scheduled for the 2001-2002 school year.

Following a review of the documentation and a presentation by the OSDE of the self-assessment pilot program, subcommittee members have raised multiple questions and concerns. These questions concern the ability of the proposed monitoring system to achieve accountability and effective compliance in educating children with disabilities. Other concerns addressed:

1. The vagueness of the 42 questions themselves,
2. The schools ability to properly identify noncompliant practices,
3. The schools willingness to self-report areas of non-compliance to the OSDE, and
4. The ability of the OSDE to review and validate the data submitted by the schools.

Additionally, it is important to note that it was very difficult for the Education Subcommittee to obtain factual data and information regarding past and present monitoring procedures from the OSDE. The OSDE lacks comprehensive written guidelines detailing the implementation of the proposed CIMP monitoring process. Due to the OSDE "destruction of records cycle", the monitoring dates and data for over 10% of schools had been destroyed. The SDE implementation of its destruction of records cycle prohibits knowing when each school district was last monitored by the OSDE. The current implementation of OSDE destruction of records policy also prohibits proper evaluation of the effectiveness of past corrective actions.

The Education Subcommittee was able to access five on-site compliance reviews from the 2000-01 school year from the OSDE. The five reports indicated:

1. The reports focused mainly on paperwork compliance rather than substantive compliance,
2. A total of 85 student files were reviewed,

3. The documentation indicated that only one child was actually observed in special education, and
4. The records did not support that an in-depth on-site comprehensive review of compliance with all IDEA regulations had occurred.

Also noted was the amount of time from the date of the OSDE on-site visit to the date of the production of the monitoring report by the OSDE. For example, the on-site monitoring review was conducted on March 27, 2001. The OSDE letter to the school superintendent, providing the written report of findings and required corrective action, was dated May 25, 2001.

The one available monitoring report completed for the 2001-2002 school year was also reviewed. This was a follow-up to a school monitored the previous year. The previous year's corrective actions were not effective in eliminating noted areas of noncompliance. Out of the six areas of noncompliance noted by the OSDE in the 2000-2001 monitoring report, five of the same violations were repeated the following year.

Also, some inconsistencies were noted between information reported in the Oklahoma Single Audit Reports and the information provided to the Education Subcommittee by the OSDE. This included information such as:

1. The number/type of review monitoring performed by the OSDE,
2. Maintenance of documentation of the procedures performed during the monitoring and reviews, and
3. Documentation recorded in the telephone complaint log.

As an example, the Oklahoma 2001 Single Audit Report reported the OSDE conducted thirteen on-site comprehensive monitoring reviews. However, the OSDE was actually only able to provide five written monitoring reports for the fiscal year 2001 to the Education Subcommittee.

Furthermore, the IDEA (Part B) requires the state to establish and maintain an advisory panel. The purpose of the State Advisory Panel is to provide policy guidance with respect to special education and related services for children with disabilities. A special rule mandates that a majority of the members appointed to the panel be individuals with disabilities or parents of children with disabilities<sup>5</sup>.

Required functions, under the IDEA, of the advisory panel include:

1. Advising the OSDE of unmet needs of children with disabilities,
2. Commenting publicly on any rules or regulations proposed by the state, and
3. Advising the OSDE in developing and implementing policies relating to the coordination of services for children with disabilities.

Required advisory panel procedures, under the IDEA, include:

1. The panel must meet as often as necessary to conduct its business,
2. By July 1 of each year, the panel must submit an annual report of panel activities and suggestions to the OSDE,

3. Official minutes must be kept on all panel meetings, and
4. Meetings must be open to the public.

Though the IDEA requires the advisory panel to submit an annual report to the OSDE by July 1 of each year, there were no reports submitted to the OSDE for the 1998-1999 and 2000-2001 school years. The last State Advisory Panel report was for November 1999-February 2000.

OSDE records indicate that during the 1998-1999 school year, the advisory panel met zero times; during the 1999-2000 school year, the advisory panel met two times; and during the 2000-2001 school year, the advisory panel met zero times. During the 2001-2002 school year, the advisory panel, with additional members, became the state's Steering Committee, for developing Oklahoma's self-assessment under OSEP "Continuous Improvement Monitoring Process" (CIMP).

It is also important to note that past and present special education advisory panel membership rosters identify certain members as being "parents". However, some of those who are listed as parents may not qualify as being parents, under the IDEA<sup>6</sup>. This is because they do not have a child that is eligible to receive services under the IDEA. These persons may certainly be appointed to the advisory panel; yet, they must not be counted as parents of children with disabilities under the special rule for membership. Because of this, it is likely that the advisory panel membership has not met the special rule requiring that "the majority of the members appointed to the panel be individuals with disabilities or parents of children with disabilities". Information received from the OSDE indicates that appointed memberships to Oklahoma's advisory panel have been under the authority of the State Superintendent of Public Instruction.

## **Recommendations**

1. The recommendations of the State Auditors Office must be adopted: Until the OSDE proposed monitoring procedures are fully implemented, the OSDE must conduct comprehensive review monitorings in approximately 25% of the schools each year.
2. Procedures must be adopted to closely monitor the effectiveness and accuracy of the School Self-Assessments.
  - a. The OSDE must ensure that the data submitted by the Schools are valid, and
  - b. The "Annual School Self-Assessments" must be disseminated to the public in the same fashion as the Annual School Report Cards.
3. Monitoring procedures must be adopted that ensure relevant measures of substantive compliance, as well as paperwork compliance.
  - a. Program effectiveness must be measured and monitored by the OSDE, and
  - b. The OSDE must adopt objective assessments that measure the effectiveness of educational programs for children with disabilities.
4. Written guidelines detailing the special education monitoring process must be developed and adopted.

- a. Guidelines utilized in conducting focused and comprehensive monitoring compliance reviews must be readily available to the public,
  - b. Independent oversight, incorporating parents/child advocates, must be utilized to ensure monitoring procedures are being properly implemented, and
  - c. Independent oversight, incorporating parent/child advocates, must be utilized to ensure that monitoring procedures are effective in identifying and eliminating noncompliant practices.
5. A procedure for tracking performance of the monitoring system must be adopted.
- a. The implementation of the OSDE destruction of records procedures must be reviewed to ensure that important monitoring data is not being destroyed prematurely.
  - b. The adopted monitoring process must have the ability to readily identify and correct systemic issues of noncompliance.
6. An IDEA (Part B) Special Education Advisory Panel to provide guidance with respect to Special Education and related services for children with disabilities must be effectively maintained by the State at all times.
- a. The panel must meet at least quarterly,
  - b. The panel must be independent from the OSDE,
  - c. The panel must operate under the direction of officers elected by members of the panel, and
  - d. The panel must comply with the requirements of the Oklahoma Open Meetings Act.
7. The membership of the Advisory Panel must meet the requirements of the “special” membership rule at all times.
- a. The OSDE must review the membership of the IDEA Special Education Advisory Panel to ensure the membership meets the mandatory rule requiring the majority to be individuals with disabilities or parents of children with disabilities, and
  - b. Rules should be adopted to prohibit members of this panel with a past or present affiliation (such as employment with an agency receiving funding under the IDEA) from being considered a part of the individuals with disabilities, or parents of children with disabilities, majority.

## **REFERENCES**

- ✓ The Individuals with Disabilities Education Act (IDEA), as amended 1997
- ✓ March 12, 1999, Federal Register, Volume 64, No. 48
- ✓ Oklahoma Policies and Procedures for Special Education (1993)
- ✓ Oklahoma Policies and Procedures for Special Education DRAFT (2000)
- ✓ July 1993 Public Agency Monitoring Document for Special Education in Oklahoma
- ✓ Technical Assistance Document Annual Program Effectiveness Document for Special Education (1993)
- ✓ July 1993 Guidelines for Compliance Review of Special Education Programs in Oklahoma. Assorted monitoring forms accessed from the OSDE - with dates from August 1997 - October 2001

- ✓ December 4, 2001 OSDE Memorandum “RE: Items you requested pertaining to on-site compliance reviews,” from Beth Pugh
- ✓ OSDE Annual Monitoring List, 1993 to present
- ✓ OSDE Written Complaint Logs: Past 5 years
- ✓ De-identified IDEA Telephone Complaint Log - past 5 years, accessed from OSDE
- ✓ Oklahoma 2000 Single Audit Report, Fiscal Year Ended June 30, 2000, Office of the State Auditor and Inspector Clifton H. Scott
- ✓ Oklahoma 2001 Single Audit Report, Fiscal Year Ended June 30, 2001, Office of the State Auditor and Inspector Clifton H. Scott
- ✓ 2000-2001 OSDE Monitoring Reports
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- ✓ LEA Self Assessment DRAFT 2002 Power Point Handout, prepared by OSDE
- ✓ Department of Education Special Education Consolidated Records Disposition Schedule 82-32 (OSDE Destruction of Records Policy)
- ✓ Representing Family & Children with Special Needs- Overview and Update Special Education Law Practice by Reed Martin, JD published by 2002 Matthews Media
- ✓ HB1401 Task Force to Review Complaint Systems for Persons with Disabilities Survey (November 2001)
- ✓ Wrightslaw: Special Education Law by Peter W. D. Wright and Pamela Wright, published by Harbor House Law Press
- ✓ Assorted e-mails and correspondences from OSDE and US Department of Education personnel
- ✓ Oklahoma Self-Assessment Draft, December 2001
- ✓ IDEA-B State Advisory Panel November 1999-February 2000, accessed from OSDE
- ✓ Annual Report IDEA-B State Advisory Panel 1997-1998, accessed from OSDE
- ✓ Annual Report IDEA-B State Advisory Panel 1996-1997, accessed from OSDE
- ✓ “State Special Education Advisory Panels: Changes Since the Passage of the 1997 Amendments to the Individuals with Disabilities Education Act” by Diane L. Miller, Ed. D., April 2001, prepared for Project FORUM, National Association of State Directors of Special Education
- ✓ Oklahoma State Department of Education, IDEA, Part B State Advisory Panel (Panel Membership Roster 2000-2001)
- ✓ Oklahoma State Department of Education, IDEA, Part B State Advisory Panel (Panel Membership Roster 2001-2002)

## *Section IV*

### **LACK OF INVESTIGATION AND RESOLUTION OF COMPLAINTS**

*It is imperative that effective state Complaint procedures be in place to provide parents with an important means of ensuring that the educational needs of their children are met and provide the Oklahoma State Department of Education with a powerful tool to identify and correct noncompliance.*

As a component of its general supervisory responsibilities, under the Individuals with Disabilities Act (IDEA), the Oklahoma State Department of Education (OSDE) must ensure that every child with a disability has access to a free appropriate public education in the least restrictive environment. The OSDE is required to adopt procedures to resolve signed written complaints alleging violations of the IDEA. The OSDE is required to issue a written decision that addresses each allegation.

The IDEA state complaint procedures are critical to the Oklahoma State Department of Education's exercise of its general supervision responsibilities. Effective state complaint procedures have the potential for providing a less costly and more efficient mechanism for resolving disputes than the due process hearing system. Therefore, effective procedures and implementation of the complaint resolution process should have a positive impact on both parents and schools.

A rigorous review of the state's written complaint system by the Education Subcommittee was hampered by the inability to access de-identified copies of the written complaint decisions from the OSDE. However, subcommittee members were able to access IDEA complaints filed with the OSDE, the OSDE written decisions, and OSDE correspondences, directly from those who had filed complaints with the OSDE.

Sufficient information was obtained to enable subcommittee members to identify areas of concern in the procedures and implementation of the state's complaint resolution process. It should be noted that at times when a person steps forward to make a complaint against a school district and/or the OSDE, instances of retaliation have occurred. Fear of retaliation was mentioned as a concern when reporting complaints to the OSDE<sup>7</sup>. Fear of retaliation was reported not only by parents, but by child service providers, advocates, and teachers as well.

Areas for concern that were identified include, but are not limited to:

- ✓ OSDE does not fully ensure that all parents receive procedural safeguards, which include information regarding written complaints<sup>8</sup>. The OSDE staff has given parents inaccurate information regarding filing written complaints,
- ✓ OSDE has "dropped" third party complaints without obtaining approval from the complainant,
- ✓ OSDE has not investigated complaints alleging physical abuse and disability harassment,
- ✓ The OSDE resolves complaints, filed against the OSDE itself, rather than making arrangements for an outside party to resolve these complaints, and
- ✓ OSDE does not consistently investigate complaints sufficiently to uncover areas of noncompliance.

- ✓ OSDE does not consistently evaluate substantive educational situations when investigating complaints to ensure that state standards are met. (*In particular, a lack of interviewing appropriate individuals involved in the complaints was noted.*)
- ✓ In resolving a complaint in which the OSDE has found a failure to provide appropriate services, OSDE does not always address how to remediate the denial of those services for the child,
- ✓ When the OSDE finds a failure to provide appropriate educational services to a child has taken place; the OSDE does not always address the appropriate future provision of services *for all children* with disabilities, and
- ✓ The OSDE does not maintain an accurate log of all complaints received.

Lastly, the OSDE is ultimately responsible for ensuring that each local school district is in compliance with the requirements of the IDEA in educating children with disabilities. However, the fact that the Oklahoma State Board of Education has, to date, been unable to adopt policies and procedures for special education in Oklahoma has been problematic. These policies should specify the changes required by the 1997 Amendments to IDEA and the ensuing regulations. While there is a draft version of the proposed revisions, there has been much confusion noted concerning what the proper policies and procedures are for educating children with disabilities in Oklahoma.

## Recommendations

1. Written procedures specifying and requiring the wide dissemination of the special education complaint procedures must be adopted.
  - a. The OSDE must take prompt action to ensure that the OSDE draft, April 1998, *Parents Rights in Special Education Notice of Procedural Safeguards*, a version which does not contain information regarding written complaint procedures, is no longer being distributed to parents by the schools, and
  - b. Procedures must be adopted to ensure OSDE staff is providing reliable and truthful information to parents regarding the special education complaint system.
2. Complaint procedures must be adopted to ensure the reporting and proper filing of special education complaints.
  - a. Guidelines must be adopted to prevent and hinder retaliation against those persons who file complaints, and/or bring attention to special education issues of noncompliance to the OSDE,
  - b. Signed, written complaints must not be “dropped” without the signed, written request/permission of the complainant,
  - c. Complaints alleging denial of a free, appropriate public education, even if the complaint involves physical abuse or disabilities harassment issues, must be investigated, and
  - d. An independent outside agency must be utilized to resolve complaints made against the OSDE and OSDE personnel.

3. Written guidelines detailing the special education complaint system process must be developed and adopted.
  - a. Procedures and checklists must be adopted to ensure the proper and thorough investigations of special education complaints,
  - b. Procedures must be adopted to fully ensure that individuals relevant to the complaint are interviewed,
  - c. State standards for special education programs must be readily available to the public,
  - d. Independent oversight incorporating parent/child advocates must be utilized to ensure the complaint procedures are being properly implemented, and
  - e. Independent oversight incorporating parent/child advocates must be utilized to ensure that the complaint procedures are effective in identifying and eliminating noncompliant practices.
  
4. Written guidelines must be adopted that fully ensure proper remedies when there is a finding of noncompliance.
  - a. When there is a finding of failure to provide appropriate services to a child, the remediation for the denial of those services appropriate to the needs of that child must be addressed, and
  - b. The OSDE must adopt procedures to send out a notice informing other schools of their findings and letting them know not to commit the same violation.
  
5. A procedure for tracking performance of the complaint system must be adopted.
  - a. The OSDE must develop written procedures to be sure all complaints received, whether made by telephone or in writing, are accurately recorded in its complaint logs, and
  - b. The adopted system must have the ability to readily identify specific issues of noncompliance.
  
6. The Oklahoma State Board of Education must take proactive steps to ensure the timely and proper adoption of Special Education Policies and Procedures.

### **REFERENCES**

- ✓ The Individuals with Disabilities Education Act (IDEA), as amended 1997
- ✓ March 12, 1999, Federal Register, Volume 64, No. 48
- ✓ Oklahoma Policies and Procedures for Special Education (1993)
- ✓ Oklahoma Policies and Procedures for Special Education DRAFT (2000)
- ✓ Oklahoma State Department of Education (DRAFT) Parents Rights in Special Education: Notice of Procedural Safeguards. April 1998
- ✓ OSDE Written Complaint Logs: Past 5 years
- ✓ De-identified IDEA Telephone Complaint Log - past 5 years, accessed from OSDE
- ✓ July 17, 2000, US Department of Education Memorandum, OSEP 00-20, Complaint Resolution Procedures under Part B of the Individuals with Disabilities Education Act
- ✓ July 25, 2000, US Department of Education “Dear Colleague Letter” regarding disability harassment

- ✓ Article, "Disability Harassment", by Andrea R. Kunkel, published in January 2002 OK Parent Connection by the Oklahoma Parent Center, Inc.
- ✓ Representing Family & Children with Special Needs- Overview and Update Special Education Law Practice by Reed Martin, JD published by 2002 Matthews Media
- ✓ HB1401 Task Force to Review Complaint Systems for Persons with Disabilities Survey (November 2001)
- ✓ Wrightslaw: Special Education Law by Peter W. D. Wright and Pamela Wright, published by Harbor House Law Press
- ✓ Assorted e-mails and correspondences from OSDE and US Department of Education personnel
- ✓ Confidential complaints filed with the OSDE, the OSDE written decisions, and OSDE correspondences provided by persons who had filed complaints with the OSDE
- ✓ Oklahoma Self-Assessment Draft, December 2001
- ✓ The September 14, 2001, New Jersey IDEA monitoring report from the US Department of Education, Office of Special Education Programs

## *Section V*

### **LACK OF LEGAL SYSTEMS TO REPRESENT FAMILIES/STUDENTS BEING SERVED UNDER IDEA**

#### **Introduction**

The Education Subcommittee (Subcommittee) is part of a legislative task force created to review the existing complaint system for persons with disabilities within the State of Oklahoma. The Subcommittee was charged with conducting a thorough review of current grievance procedures and hearing processes utilized with regard to complaints filed by or on behalf of persons with disabilities, and to make recommendations concerning improvements, including suggested modification of existing policies, rules, guidelines, and procedures.

This portion of the Subcommittee's report concerns the due process hearing system which has been created, and is administered, by the Oklahoma State Department of Education (OSDE) pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., and the federal regulations promulgated by the US Department of Education to implement IDEA, 34 C.F.R. § 300.1 et seq.

IDEA was enacted by Congress in 1975. As expressly stated in the Act, its purposes include: to ensure that all children with disabilities have available to them a Free Appropriate Public Education (FAPE) and to ensure that the rights of children with disabilities and parents of such children are protected (20 U.S.C. § 1400(d)). IDEA bestows education rights upon disabled children and youth aged 3-21 and provides procedural safeguards to ensure those rights. There are approximately 88,000 disabled children and youth in Oklahoma (see Child Count Data, May 2001).

Oklahoma accepts federal funds under IDEA, and therefore must comply with both the substantive and procedural rights mandated under IDEA. It is important to note however, that IDEA does not prohibit a state from adopting laws, rules, and regulations which bestow *greater* rights and remedies than those provided under IDEA. In order to implement the provisions of IDEA, the OSDE has promulgated various policies, procedures and guidelines. See Policies and Procedures for Special Education in Oklahoma (1993), and Due Process in Special Education Guidelines for Parents and School Administrators (1993).<sup>9</sup>

Under IDEA, the parent<sup>10</sup> plays a critical role as advocate for the disabled child. The parent has the right to actively participate with the school district in the formulation and implementation of the child's individualized education program (IEP).

In addition, if the parent disagrees with the school district's placement or program for the child, IDEA provides a specific procedure for the parent to obtain a *fair, impartial, and expedient* adjudication of the dispute – the due process hearing.

IDEA mandates that the hearing must be impartial and provides specific time lines to ensure expediency. For instance, the hearing officer may not be an employee of the OSDE or of the school district. Also, a hearing and written decision must be completed within 45 days of the parent's request for due process. See 34 C.F.R. §§ 300.507-300.511. However, the details for the due process system, and for conducting the hearing itself, are left to the individual state.

For instance, a state may provide for either a one-tier or two-tier due process system. Oklahoma uses a two-tier system, which provides for a hearing and decision by a hearing officer and an appeal from said decision to an appeal officer. Under IDEA, once the administrative procedures are exhausted, either party may commence a civil action in state or federal court for further review. United States Supreme Court precedent provides that in any court review of a due process decision, some deference must be given to the administrative proceedings. In addition, while some additional evidence may be allowed, for the most part, court review is limited to the record created in the due process hearing. Because of the important role served by the due process hearing, it is critical that due process hearing and appeal officers possess not only a legal background and training but also a strong knowledge of educational concepts and practice.

IDEA creates important and significant rights for disabled children. It is imperative that, when necessary, parents are able to readily access the due process hearing system and that the system performs as envisioned under IDEA. Parents who disagree with a school districts' IEP and seek to challenge the same, face a daunting task. IDEA is a complex piece of legislation. Most parents are uninformed or under informed concerning IDEA and their child's rights thereunder. In addition, parents are faced with prosecuting a due process proceeding against a school district which has the benefit of legal counsel paid with public funds.

Factors such as these may explain why parents in this state have infrequently utilized the due process hearing system. Although there are some 88,000 disabled children statewide, requests for due process average roughly 30 per year. (See OSDE Due Process Hearing Log 1995-2000, attached hereto as Exhibit "A") Obviously, the due process hearing is a critical safeguard for ensuring the educational rights of disabled children. Therefore, it is important that the system be as accessible, inexpensive, fair and expedient as possible. If parents are going to have faith in the system, it imperative that the due process hearing system not only be fair in fact, but also that it be maintained and operated in a fashion which avoids even the appearance of bias. Parents must be confident that, should they choose to challenge a school district's IEP and/or placement of their child, they will receive an expedient, fair, and impartial hearing and adjudication.

In conducting its review, the Subcommittee received information from the OSDE, parents, lawyers who have represented children with disabilities and their parents in due process proceedings, and legal aid organizations representing persons with disabilities. Information concerning due process hearing systems in other states was also reviewed.

Based upon its deliberations, the Subcommittee concludes that, if the due process hearing is to fulfill its important role under IDEA, a number of modifications to the OSDE's current due process system should be implemented. These recommended changes will, in the Subcommittee's view, go a long way toward improving the current system and ensuring that the due process hearing procedure in

Oklahoma comports with the goals and ideals of IDEA. The Subcommittee's recommendations follow.

## **Recommendations**

1. Steps should be taken to ensure that parents are fully informed concerning their rights under IDEA.

It is a basic premise of IDEA that the parent will be actively involved in the development of the child's educational program. IDEA envisions that the parent will advocate for the child and seek to ensure that the child's right to a FAPE is protected. Critical to this role is the parent's ability to, when necessary challenge the school district's IEP and/or placement for the child through the due process procedure. In order to fulfill their role as advocates for the child, it is imperative that parents are aware of their rights under IDEA, that they have a basic understanding of those rights, and that they have real access to legal representation to assist them in enforcing the rights.

- a. Parent networks for the sharing of information and support should be developed. Parents cannot begin to effectively safeguard their child's rights under IDEA without basic information about those rights. The Subcommittee finds that parents of children with disabilities in Oklahoma are generally uninformed or under informed about their rights. One way to improve the level of awareness is to increase parents' ability to communicate with other parents. In order to increase awareness, coordinate, network, and share more information, interested parents of disabled children should have available the names and addresses of other parents who likewise wish to share information. Under IDEA, the OSDE and local school districts are required to identify each child with a disability, and to provide that child with FAPE. However, due to educational privacy considerations, it is extremely difficult for parents to learn the identity of other parents of children with disabilities. This has the effect of keeping parents isolated and exacerbates the problem of parents being uninformed. Parents should be given the option of permitting their names/addresses/e-mail addresses/and phone numbers to be placed on a list with other parents who likewise wish to share the information. The local school districts, as well as the OSDE, should be required to maintain said lists and make the same available to interested parents of disabled children upon request. Information about the list, and its voluntary nature, should be disseminated at the beginning of each school year to all parents of disabled students. It should also be made clear that the lists are maintained for the sole purpose of parent networking and that school districts may *not* use the lists for any other purpose.
- b. School districts should disseminate information annually regarding parents' rights. Under IDEA, school districts are required to provide information about due process rights to parents: (a) upon initial referral for evaluation; (b) upon each notification of an IEP meeting; (c) upon re-evaluation of the child; and (d) upon receipt of a request for a due process hearing. (34 C.F.R. § 300-504). However many parents do not generally

understand their rights under IDEA. In addition, the Subcommittee received reports of parents not receiving the required information at the times mandated under IDEA.

Therefore, at the beginning of each school year, each school district should be required to provide to the parents of a child who has been identified as having a disability written information concerning IDEA, IEP's, due process hearing rights, and legal services available to assist parents. In addition, the school district should be required to make such information available generally to all interested persons. The fact that such information is available should be publicized – for instance, by referencing such on school district-sponsored websites, in newsletters, school newspapers, etc.

**2. The OSDE's current due process system should be modified in order to ensure a fair, expedient, and inexpensive adjudication of an IDEA dispute**

IDEA mandates that a due process hearing should be fair, impartial, and expedient. For instance, IDEA provides that the due process hearing and decision must be rendered within 45 days of the request for due process, and the appeal decision must be rendered within 30 days of the notice of appeal, 34 C.F.R. § 300.511. It also provides that the hearing officer must be impartial. 34 C.F.R. § 300.508. However, IDEA does not provide many details for the conduct of due process hearings, leaving the specifics up to the state to develop. Based upon its study, the Subcommittee concludes that the due process system developed and operated by the OSDE has fallen short of the goals and ideals established by IDEA, and that a number of changes to the current due process system should be adopted.

- a. Hearing and appeal officers should possess law degrees. Currently, the OSDE is utilizing both lawyers and non-lawyers as hearing and appeal officers. However, because of the complexity of IDEA, and the need for a solid knowledge of the rules of evidence and pre-trial and trial procedures, the Subcommittee recommends that hearing and appeal officers should possess law degrees. This is a requirement in some other states – e.g., Texas<sup>11</sup>. Certainly, preference should be given to persons who also possess backgrounds in special education and related disciplines, such as psychology. Indeed, IDEA envisions that the administrative decisions should be made by persons with expertise in education. Nevertheless, because the hearing/appeal officer must be able to review, interpret, and apply complex statutes, regulations and an ever-growing body of case law and be able to conduct legal research of issues arising in the due process proceedings, the Subcommittee concludes that possession of legal training and a law degree are necessary requisites for hearing and appeal officers.
- b. Parent/Child advocates should be included in the process of recruiting and selecting hearing and appeal officers. Currently, the OSDE acts unilaterally in recruiting and selecting hearing and appeal officers. Because the OSDE is not disinterested in the outcome of these proceedings (see footnote 9), the recruitment and selection of hearing and appeal officers should be done by a committee which includes parents and representatives of parent/child advocacy groups (with each member of the committee having an equal say).

- c. IDEA training programs provided to hearing and appeal officers should be open to parents, parent advocates, and interested attorneys. Currently, the OSDE acts unilaterally in providing training to the hearing and appeal officers. Because the OSDE is not disinterested in the outcome of these proceedings (see Footnote 9), parents and representatives of parent/child advocacy groups should be involved in decisions regarding the training and education provided to hearing and appeal officers. In addition, *mandatory* requirements for continuing education/training for all hearing and appeal officers should be adopted and enforced.<sup>12</sup> The continuing education/training seminars and programs should also be open to parents, parent/child advocacy groups, and interested attorneys on a low cost/no cost basis.
- d. A random/rotational method of appointment should be used to assign hearing and appeal officers to particular cases. In the past, the OSDE has chosen the hearing or appeal officer to be assigned to a particular case. Such a practice is subject to potential abuse and creates at least an appearance of impropriety. As noted, the OSDE is not a disinterested, objective third party in due process proceedings. OSDE records show that during substantial periods in the past, it was appointing the same hearing officer and appeal officer to virtually *every* due process case. (see OSDE Due Process Hearing Logs, 1995-2000, attached as Exhibit “A”).<sup>13</sup> This practice also resulted in long delays in concluding due process hearings. The Subcommittee recommends that the OSDE utilize a random/rotational system of assigning hearing and appeal officers to particular cases.
- e. Adequate numbers of qualified hearing and appeal officers must be maintained. IDEA requires a *list* of hearing and appeal officers be maintained. [See 34 C.F.R. § 300-508(c)]. However, in the past, the OSDE has utilized insufficient numbers of hearing and appeal officers, which resulted in the over-use of a single hearing officer and a single appeal officer during certain periods, and long delays in concluding due process proceedings. The Subcommittee recommends that the OSDE maintain at all times adequate numbers of qualified hearing and appeal officers in order to ensure timely disposition of due process proceedings.
- f. IDEA time lines which ensure expedient proceedings must be enforced. IDEA provides that a due process hearing and written decision should be rendered within 45 days from the request for due process. An appeal decision is required within 30 days of the filing of the notice of appeal. However, it is evident that the OSDE has not enforced this requirement. Indeed, in 1998 the OSDE adopted an addendum to its Due Process Guidelines in an effort to ensure timely written decisions following the conclusion of the hearing itself, but this guideline has also not been enforced by the OSDE. The Subcommittee finds that, in many instances, due process proceedings have languished for many months (see subparagraph g below). It is imperative that due process proceedings be conducted expeditiously. Therefore, the Subcommittee recommends that the OSDE adopt policies and procedures which ensure adherence to the IDEA time lines by hearing and appeal officers and that those hearing and appeal officers who do not comply can no longer be utilized.

- g. The per diem method for paying hearing officers should be changed. Currently, the OSDE pays hearing officers by the day – they receive \$200.00/day for the hearing and a flat fee of \$250.00 for writing the decision. The Subcommittee believes that this payment method may have the effect of encouraging protracted hearings – as the hearing officer earns more the longer the hearing. In 1999-2000, just three due process hearings took a combined 70+ days of trial – 42 days, 21 days and 12 days, respectively<sup>14</sup>. Significantly, all three hearings were conducted by the same hearing officer. Moreover, the hearings were being conducted during the same period of time. This resulted in long delays in concluding the hearings, as the hearing officer was unable to start and complete any of the hearings without hiatus. It is difficult to envision a dispute over a child’s educational placement or program requiring such protracted hearings. Numerous problems arise from unnecessarily protracted proceedings. Certainly, it is in the child’s best interest to have educational issues resolved quickly. In addition, the financial and emotional cost to the family is increased exponentially by unnecessarily long proceedings. Also, the record developed at the hearing must be reviewed, not only by the hearing officer, but by the appeal officer and by a court should a civil action ultimately be filed. A record which contains redundant, irrelevant, or marginally relevant testimony and exhibits makes each level of review more burdensome, costly, and time consuming. This also points out the need to have lawyers and/or administrative law judges who are trained in evidentiary proceedings to serve as hearing officers. There is a real need in these proceedings to maintain the focus on what is relevant to the educational issue at hand. In addition, the Subcommittee recommends that hearing officers’ compensation be established and set on some basis other than per diem. The OSDE should either establish flat rates for the hearing and decision (perhaps with flexibility to deal with an extraordinary situation) or simply pay a set salary. In any event, emphasis should be placed on providing fair and expeditious adjudication and compliance with IDEA time lines. Hearing/appeal officers who do not abide by mandated time lines should no longer be qualified to serve (see subparagraph j below).
- h. Rules relating to pretrial and trial procedures should be adopted in order to ensure uniformity in proceedings. Currently, there are few if any procedural rules governing pretrial procedures in due process hearings. This provides a potential for abuse. The Subcommittee heard reports of abuses in the conduct of pre-trial discovery in connection with due process proceedings. The Subcommittee recommends that the OSDE adopt uniform pretrial and trial procedures so that all cases will be treated uniformly and the participants will know what can be expected.<sup>15</sup> In this regard, the Subcommittee again emphasized that due process proceedings are not to be treated as full-blown, civil litigation. Except in cases where *both* parties agree otherwise, pretrial discovery should be kept to a minimum and should be constrained to production of records and documents which are *truly* relevant to the issues to be adjudicated (again, this points out the need for hearing officers to possess legal training and a law degree). A due process proceeding should not be waged as a battle of attrition. Based on the information presented to the Subcommittee, there is real concern that parents may be dissuaded from pursuing a due process hearing to protect their child’s rights for fear of the emotional and financial price of being subjected to harassment and “Rambo” litigation tactics. Parents and parent advocacy group representatives should be included in the OSDE’s development of such uniform rules for pretrial and trial procedures.

- i. Information provided to the parties regarding the hearing and appeal officers should be expanded. Currently, when a hearing or appeal officer is assigned to a particular case, the parties are provided a very skeletal statement concerning the hearing officer's qualifications. (see Exhibit "B" attached). The parties may at that point move to disqualify the hearing or appeal officers, (e.g., for bias, conflict of interest, etc). However, the quantum of information currently provided makes it difficult for a parent to make an informed decision whether to seek to recuse a hearing officer. For instance, the Subcommittee heard reports that a hearing officer currently used by the OSDE has a spouse who is or has been employed as a public school teacher. Such does not violate IDEA. Nevertheless, that information may have been significant to the parent in deciding whether to challenge the appointment of the hearing officer on the ground of bias. The Subcommittee recommends that the information provided be expanded, for instance, by including information regarding the employment of the hearing/appeal officer's spouses whether the hearing officer has children who attend or have attended schools within the school district involved in the hearing, etc. Additional disclosure will improve the parties' confidence that the hearing/appeal officer assigned to the case will in fact be impartial.
- j. Rules for oversight and, if necessary, removal of a hearing officer should be adopted. Currently, once the OSDE assigns a hearing officer to a case, no further involvement or oversight is provided. Thus, there is no mechanism in place to ensure that the hearing officer is discharging his/her duties as required. The Subcommittee recommends that at the time a case is assigned to a hearing officer, an appeal officer also be assigned for purpose of overseeing the administration of the due process hearing (a different appeal officer would be assigned to the case later if an appeal were filed). Procedures should be adopted for limited oversight of the hearing officer. For instance, if a hearing officer failed to timely conduct and conclude a hearing or failed to timely render a written decision, the parties could petition the appeal officer to remove the hearing officer and assign a new hearing officer to complete the hearing and/or render the decision.
- k. A procedure for tracking performance of the due process system should be adopted. Currently, the OSDE tracks the dates associated with due process proceedings. For instance, the date of the due process request, the number of hearing days conducted, the decision date, the date appeal requested, and the date appeal decision rendered. However, the OSDE is not monitoring qualitative factors in order to gauge the effectiveness of its system. For instance, while the OSDE reported that a particular hearing took 42 hearing days for presentation of testimony, there was no inquiry whether 42 days were necessary or appropriate. The Subcommittee recommends that a monitoring procedure be implemented in order for the OSDE to monitor, on an on-going basis, how the due process hearing system is performing in view of the overriding goals of fair, impartial, and expedient adjudication. This procedure should include a posthearing questionnaire to the parties, geared toward eliciting information and comments concerning the fairness of the process rather than the outcome of the decision. (For instance: Did the hearing officer adhere to established procedures and time lines? Were the parties given adequate opportunity and time to present their evidence? Did the hearing officer treat the parties in a fair fashion in the conduct of the hearing?). Such information could be utilized in determining what areas require additional emphasis in hearing officer training and

continuing education, as well as in decisions regarding retention of hearing officers. Parents and parent advocacy groups should be included in any group charged with creating the monitoring procedures.

### **3. Legal services should be made available to all parents**

IDEA is a complex piece of legislation. It encompasses not only federal statutes and federal regulations, but also state-adopted laws, policies, procedures, and guidelines. There is also a large body of case-law interpreting IDEA, which now spans over a quarter century. It is unrealistic to believe that a parent who does not have legal representation will be able to effectively safeguard the child's rights and advocate for the child. School districts are able to hire legal counsel (at taxpayers expense) when parents challenge the child's IEP and/or placement through a due process hearing. Indeed, the Subcommittee received many reports of school district lawyers even attending IEP meetings. Most parents simply cannot afford to hire a lawyer, and without legal representation, parents are at a real disadvantage against a publicly funded school district.

The Subcommittee gathered information indicating that there is a real void in available legal services to assist parents in due process proceedings. First, because money damages are not generally available under IDEA, there is no real incentive for private practice attorneys to take these cases on a contingency fee basis. Although a successful parent may be awarded attorney's fees under IDEA, there is simply no interest among the bar to take these cases on a contingent fee arrangement. Second, there are few private practice attorneys in this state who practice in this area of law – likely due at least in part to the fact that there is no contingency fee incentive and few parents are able to afford hourly rate fees. Third, the publicly funded legal services currently available are extremely limited. Legal Aid of Western Oklahoma representatives advised the Subcommittee that they have not in the past represented parents in connection with IDEA issues, but that they are interested in developing representation in this area. However, Legal Aid is constrained by its organizational mandate to representing only qualifying low-income families. The Oklahoma Disability Law Center (ODLC) also provides low cost/no cost legal assistance. However, that organization has limited staff and resources, and simply cannot handle the vast majority of IEP disputes. It should also be noted that the education law matters constitute only a portion of what those organizations are charged with handling. Thus, the resources they may devote to this need fall considerably short of demand. In short, the Subcommittee finds that the need for low cost/no cost legal representation for IDEA disputes far surpasses available services and resources. However, parents who lack legal representation are at a tremendous disadvantage, and are ill-prepared to effectively enforce IDEA and safeguard their child's rights. The result is that the IDEA rights of many disabled children are not being protected.

The Subcommittee received reports of school districts spending tens of thousands and even hundreds of thousands of dollars (of taxpayer funds) on legal fees fighting parents who challenged their child's IEP. If parents are expected to safeguard the rights of their disabled child under IDEA in the face of school districts with publicly financed attorneys, public funding for legal representation for parents should also be made available. In addition, the due

process system itself must be modified in order to ensure that due process proceedings are as fast, fair, and inexpensive as practicable.

**4 The OSDE should contract with a law school or university to administer the due process hearing system.**

Under IDEA, the State of Oklahoma is ultimately responsible for ensuring and providing a free appropriate public education (FAPE) to Oklahoma children with a disability aged 3-21. The local school district is, in the first instance, responsible for providing FAPE to the disabled children within its district. However, if the local school district fails or refuses to comply with IDEA, then the OSDE is responsible to do so in its stead. Therefore, the OSDE is not truly a disinterested party concerning disputes between a parent and a local school district under IDEA. However, the OSDE created and administers Oklahoma's due process hearing system. Currently, OSDE recruits, selects, trains, and appoints the hearing appeals officers. Moreover, the hearing and appeal officers serve at the pleasure of the OSDE. This practice is not prohibited by IDEA. Nevertheless, parents utilizing the due process hearing system should be confident that they will be provided a fair and unbiased adjudication of their claim. The current system is fraught with the potential for conflict of interest. Certainly, it creates at least an appearance of bias.

Therefore, the Subcommittee recommends that the OSDE contract with a university, and preferably a law school, to administer the due process hearing system. This is a practice which has been adopted in other states, for instance California. Of course, the OSDE must remain involved as it is ultimately responsible for the state's compliance with IDEA. However, it is the finding of the Subcommittee that because the OSDE is not completely disinterested in the outcome of the due process proceedings, the OSDE should not continue its active, direct involvement in recruiting, selecting, training, appointing, and retaining hearing and appeal officers or in administering the due process system.

<p style="text-align: center;"><b>Conclusion</b></p>
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Under IDEA, the due process hearing system is critical to enforcing school district compliance with the law and protecting the rights of our state's disabled children. The Subcommittee concludes, however, that the OSDE has failed to provide the kind of fair, inexpensive, and expedient hearing and appeal process envisioned by IDEA. The Subcommittee believes that implementation of its recommendations will go a long way toward improving the OSDE's due process procedure. The suggested changes to the system itself, coupled with improving parents' access to information and legal services will result in a system which is fairer and more accessible to parents. This in turn will empower parents to more effectively advocate for the rights of their disabled children and thereby fulfill their role under IDEA.

## **B. Career and Technology Education**

*CareerTech Education is considered the economic development branch of Oklahoma's education system.*

The mission of Oklahoma's Career Tech system is to prepare all Oklahomans to succeed in the workplace. Annually, about one in every 10 Oklahomans enroll in some phase of CareerTech education. During the 2000-2001 school year, Oklahoma's CareerTech system had more than 133,000 secondary student enrollments. In addition, they had 316,000 adult enrollments. Oklahoma's CareerTech educational system accounts for educating nearly half a million students.

1. CareerTech includes training in full-time, industry-specific, adult training and Development Training for Industry Programs (DTIP).
2. The Oklahoma Department of Career and Technology Education (ODCTE) offers programs and services in 29 Technology centers districts operating on 54 campuses.
  - a. 398 comprehensive school districts;
  - b. 25 Career Tech skill centers; and
  - c. Three juvenile facilities serving juvenile offenders and those who are incarcerated.

Oklahoma CareerTech system strongly supports rigorous academics for all students. The ODCTE strives to prepare students for high-skill, high-wage jobs. This is especially important for those who do not graduate from college.

3. The ODCTE has three processes by which compliance with the federal regulations for civil rights is monitored. These processes include:
  - a. On-site civil rights reviews;
  - b. Program evaluations; and
  - c. Individual complaints.
4. These procedures are used in:
  - a. Local technology centers
  - b. Skills center programs
  - c. Common school districts which have Career and Technology Education programs
  - d. Post secondary institutions that receive Carl Perkins funding through the ODCTE
5. All technology center programs have independent responsibility for the development of grievance procedures in accordance with:
  - a. Title VI of the Civil Rights Act of 1964,

- b. Title IX of the Education Amendments of 1972,
- c. Section 504 of the Rehabilitation Act of 1973, and
- d. The Americans with Disabilities Act of 1990.

In short, there is likely to be some variation found within grievance procedures from site to site, with some sites having procedures which are more comprehensive than others.

## **Recommendations**

It is recommended that the ODCTE provide technical assistance/training to encourage “best practice” among all centers with regard to grievance procedure development.

## GRIEVANCE RESOLUTION SURVEY FINDINGS

### Background

In FY 2000, the legislature passed House Bill 2356 which was amended in FY2001 as HB 1401. HB 2356 created a task force to study the effectiveness of formal grievance procedures for individuals with disabilities used by state and local agencies. The task force, chaired by Representative Al Lindley, is in the process of making recommendations to the legislature regarding improvements to these processes. The ODCTE's cooperation with the task force's inquiries was mandatory under the statute and, as such, ODCTE fully participated with task force activities.

#### *Students with Disabilities Served by the CareerTech System*

When considering the purpose of the task force and the role of the CareerTech system in serving enrolled students with disabilities, it is helpful to review current enrollment information. Enrollments of students with disabilities based on the FY 2000-2001 school year are as follows:

#### **CareerTech Students with Disabilities Enrollment for FY 2000-2001**

<b>Secondary Students</b>	<b>Total Students</b>	<b>Not Disabled</b>	<b>Total Disabled</b>
Technology Centers	14,641	11,957	2,684 (18%)
Comprehensive Schools	118,413	103,496	14,917 (12%)
<i>TOTAL SECONDARY</i>	133,054	115,453	17,601 (13%)

<b>Adult Students</b>	<b>Total Students</b>	<b>Not Disabled</b>	<b>Total Disabled</b>
Technology Centers	10,467	9,819	648 (.06%)
<i>TOTAL ADULTS</i>	10,467	9,819	648 (.06%)

#### Notes:

1. Enrollment data is provided by the ODCTE Information Management Division,
2. 13% of the total secondary student population that CareerTech serves is students with disabilities,
3. .06% of the total CareerTech adult student population is adults with disabilities.

## Survey Methodology

In order to provide the most current information requested by the task force, the ODCTE surveyed all 29 technology centers. The design of the survey instrument incorporated a direct response format to gather information and data that was pertinent to responding technology centers. As such, all survey information and data collected on the submitted surveys are self-reported.

The survey questions focused on disability services, program services and compliance expenditures, and grievance resolution processes. Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) provided the basis for many of the questions included on the survey.

## Survey Findings

With 62% of the technology centers responding to the survey, the findings provide a “picture” of how services are provided, who accesses those services, and information supporting compliance procedures. The following points highlight findings of the survey:

1. In addition to providing services required by law, all responding technology centers indicated that they provide a significant level of additional, nonmandated support services. The majority of these additional services centered on tutoring and other forms of personal assistance and assessment services.
2. There are approximately 118 staff persons employed by the responding tech centers in full- or part-time professional positions that serve students with disabilities. This includes ADA/504 compliance personnel. Forty-nine individuals are employed in full- or part-time paraprofessional/classroom assistant positions.
3. Program services and compliance expenditures (i.e., physical access expenditures, support services expenditures, and assistive technology expenditures) were totaled within two funds: “local funds” and “other funds” (i.e. federal vocational funding and grants). The funding amounts over time are highlighted below:

### Local Funding

<b>FY 99 Local Funds</b>	<b>FY 00 Local Funds</b>	<b>FY 01 Local Funds</b>	<b>Local Funds - Total</b>
\$2,214,150.00	\$2,082,984.00	\$1,342,866.00	\$5,640,000.00

**Other Funding**

<b>FY 99 Other Funds</b>	<b>FY 00 Other Funds</b>	<b>FY 01 Other Funds</b>	<b>Other Funds - Total</b>
\$1,383,669.00	\$1,395,775.00	\$1,327,404.00	\$4,106,848.00

**TOTAL FUNDING \$9,746,848.00**

1. Information collected from the responding technology centers indicated that there was one complaint filed in FY 99. Additionally, it was documented that zero complaints were filed by technology center students to the U.S. Department of Education or with any of the responding local technology centers in FY 00 and FY01. As such, there were zero complaints filed with the Office of Civil Rights.
2. Written material (i.e., handbooks, pamphlets, posters) were the means most commonly used to disseminate information to students about local grievance processes and support services. Orientation classes and technology center websites were also indicated as information dissemination points to students with disabilities.

For further information concerning these findings, please contact:

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## C. Higher Education

The Oklahoma State Regents for Higher Education is the statewide coordinating board of control for the state's 25 colleges and universities, 10 constituent agencies and two higher education programs. The State Regents prescribe academic standards of higher education, determine functions and courses of study at state colleges and universities, grant degrees, recommend to the state Legislature budget allocations for each college and university, and recommend proposed fees within limits set by the Legislature.

Different laws apply for students as they transition from high school to college. The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 are very different, often leading to miscommunication between college and high school staff who have studied only the statutes applying to their institution.

High School	Post-Secondary
Individuals with Disabilities Education Act (IDEA)	Section 504 of the Rehabilitation Act of 1973
Section 504 of the Rehabilitation Act of 1973	Americans with Disabilities Act
Americans with Disabilities Act	Civil Rights Restoration Act
Civil Rights Restoration Act	

1. In high school, the school has responsibilities which include the following:
  - a. Identify students with disabilities,
  - b. Classify disabilities according to specified diagnostic categories,
  - c. Involve parents or guardians in placement decisions,
  - d. Place students in programs where they can benefit in any way,
  - e. Prepare Individualized Education Plans Programs (IEPs), and
  - f. Provide a Free and Appropriate Public Education (FAPE).
  
2. The post-secondary level institutional role changes as follows:
  - a. Protect a student's right to privacy and confidentiality,
  - b. Provide access to programs and services which are offered to persons without disabilities,
  - c. Inform students of office location and procedures for requesting accommodations,
  - d. Accept and evaluate verifying documentation,
  - e. Determine that a mental or physical impairment causes a substantial limitation of a major life activity based on student-provided, verifying documents,
  - f. Determine whether students are otherwise qualified for participation in the program or service, with or without accommodations, and if so, whether a reasonable accommodation is possible,
  - g. Make reasonable accommodations for students who meet the above qualifying criteria,
  - h. Provide reasonable access to program and service choices equal to those available to the general public,

- i. Make reasonable adjustments in teaching methods which do not alter the essential content of a course or program,
  - j. Assure that off-campus and contracted program facilities also comply with Section 504 (Subpart E) and ADA, and
  - k. Inform students of their rights and responsibilities.
3. Students have a responsibility to:
  - a. Self identify or disclose their disability to the designated office for disability services,
  - b. Provide verifying documentation to that designated office,
  - c. Obtain assessment and test results and provide them to that office,
  - d. Act as independent adults,
  - e. Arrange their own weekly schedules,
  - f. Contact their instructors to activate and adopt accommodations for each class, and
  - g. Arrange for and obtain their own personal attendants, tutoring, and individually fitted or designed assistive technologies.
4. Postsecondary institutions are **not** required to:
  - a. Reduce or waive any of the essential requirements of a course or program,
  - b. Conduct testing and assessment of learning, psychological, or medical disabilities,
  - c. Provide personal attendants,
  - d. Provide personal or private tutors (but tutoring services normally available to persons without disabilities must be accessible to persons with disabilities who are otherwise qualified for those services), and
  - e. Prepare Individual Education Programs (IEPs).
5. The Oklahoma Constitution maintains the authority to establish Boards of Regents at each higher education institution. In turn, each institution facilitates its own Board of Regents who has independent responsibility for the development of a grievance procedure at that institution.

## **Recommendations**

The Oklahoma State Regents for Higher Education should encourage entities within the Oklahoma State System of Higher Education to utilize 'best practice' with regard to specific activities for postsecondary students with disabilities as it relates to ADA/504 compliance.

***TASK FORCE TO REVIEW THE COMPLAINT SYSTEM FOR PERSONS  
WITH DISABILITIES***

**Residential/Employment/Independent Living (REIL)**

**Subcommittee Members**

***Jo Sirmans, Client Assistance Program (CAP) (Convener)***

***Joe Mecham, Progressive Independence (PI) (Co-Chair)***

***Larry Bishop, Department of Rehabilitation Services***

***Charlotte Bowen, State Independent Living Council (SILC)***

***Melanie Eick, Career/Technology***

***Nancy English, Oklahoma Housing Finance Agency (OHFA)***

***Linda Jaco, Oklahoma ABLÉ Tech***

***Patricia Lumley, Oklahoma Commission on Children and Youth (OCCY)***

***Harold Skinner, Office of Handicapped Concerns (OHC)***

## REIL SUBCOMMITTEE FINDINGS

The Residential, Employment, and Independent Living (REIL) Subcommittee of the Task Force to Review the Complaint System for Persons with Disabilities was given the assignment to conduct a thorough review of the procedures for reporting and resolving complaints regarding access to programs and services by persons with disabilities within various governmental entities in Oklahoma and to recommend any changes necessary to improve the system based on its findings. Based on our review of the agencies responsible for providing residential, employment, and independent living services for citizens of Oklahoma we propose that the following model system components be adopted by all agencies. All agencies that provide services participate by having a complaint/grievance process that follows this model with exceptions as necessary related to agency mission and/or operations.

The steps listed below are not intended to replace existing procedures used by employees of the State to file grievance against an agency; rather, they are designed to improve the responsiveness of services to the citizens we serve who currently have no uniform method to appeal agency decisions.

### Recommendations

- ✓ **Public Process, easily understood by all:**  
All agencies that provide services to citizens of Oklahoma should publicize the fact that they have a complaint/grievance process and person to contact and what steps to take to file a complaint/grievance.
- ✓ **An entry point as common as public library/Tag agents:**  
A person should be able to file or submit a complaint/grievance at any agency location or get the necessary information to file from an easily accessible location.
- ✓ **Alternate formats to support all types of disability made available through the Internet:**  
A person should be able to file or submit a complaint/grievance regardless of their disability and should be able to get the needed information from the state web site or the agency web site if one is available.
- ✓ **Consumer Relations Officer in each agency to encourage use of system:**  
Each agency should have a person in the agency to encourage the use of the complaint/grievance process.
- ✓ **Built in Advocacy:**  
There should be a person that assists the public with the complaint/grievance process and be available to support the citizen with the process, to walk through the process and, if requested by consumer, to represent the consumer;

- ✓ **Time Limited:**  
There is a time sequence so the agency has to process the complaint/grievance within specified limits and requires mutual consent to change dates/sequencing of events.
- ✓ **Detailed Appeals Process:**  
The process of requesting a reversal of an agency decision cannot be arbitrary or capricious and must specify the steps to be followed to appeal the agency action.
- ✓ **Agency Administrative Review:**
  - a. The agency has an internal procedure to review decisions by subordinates thus providing oversight with consumer input by more experienced managers, not just a review of case records.
  - b. A postmediation survey or similar procedure will be used to assess the validity of the process.
- ✓ **Mediation process:**
  - a. An outside impartial mediator that provides an opportunity for compromise and resolution of the issue.
  - b. All participants must agree to participate in the process.
  - c. A post mediation survey or similar procedure will be used to assess the validity of the process.
- ✓ **Independent Hearing Process:**
  - a. Hearing officer (HO) independent from agency;
  - b. Selection of HO independent from agency;
  - c. Qualifications by independent organization;
  - d. Consumers have input, not just a records review.
- ✓ **Independent Audit/ Quality Assurance:**  
An annual performance audit conducted by an impartial, outside agency.
- ✓ **Enforcement Process:**  
Noncompliance reported to Chief Executive and Legislative leadership.

## Summary

The REIL Subcommittee realizes that new legislation will be required to allow agencies to implement this process. We recommend the model system components described above as the **minimum** acceptable complaint/grievance process to be followed by agencies that serve the citizens of Oklahoma.

## **Career and Technology Center Disability Services/ Grievance Resolution Survey**

### **Introduction**

In FY 2000, the legislature passed HB 2356. In FY 2002, HB2356 has been amended to HB1401. This House Bill created a task force to study the effectiveness of formal grievance procedures for individuals with disabilities used by state and local agencies. The Task Force, chaired by Representative Al Lindley, will make recommendations to the legislature regarding improvements to these processes, including the potential for a statewide complaint system.

The ODCTE's cooperation with the task force's inquiries is mandatory under the statute. As such, the Task Force is collecting information regarding established grievance procedures by our state educational system (i.e., OK Regents of Higher Education, OK Department of Education, and ODCTE). Your responses will be summarized and a report provided to the task force. Your assistance in helping us meet this mandate is sincerely appreciated.

As you are aware, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) require institutions to have a grievance procedure. Some technology centers use a "general" student grievance procedure for student complaints; others have separate 504/ADA grievance procedures. Please provide the information requested that is specific to disability issues, regardless of the type of grievance procedure you have in place.

Because the technology centers also provide services to secondary students, the task force is also interested in due process hearings the technology centers have been involved in, if any.

*The identity of the technology center and the person completing the survey will be kept confidential in the report given to the task force.* The information will in no way be used against the technology center or the person completing the survey. However, the specific technology center and the name of the person completing the survey is needed should I need to contact you for clarification or further information.

Please complete and return the survey in the enclosed business reply envelope by **May 31, 2002**. Thank you so much for your time and cooperation in gathering this information. The results will help us determine what changes are needed in order to improve services for individuals with disabilities. Please contact me if you have any questions or need further information.

### **Contact Information:**

*Melanie Eick*

*Disabilities Services Specialist*

*Phone: (405) 743-5138*

*E-mail: [meick@okcareertech.org](mailto:meick@okcareertech.org)*

## GRIEVANCE RESOLUTION SURVEY

Directions:

Please complete the following survey questions. The responses you provide should reflect data and information **totaled** for your entire technology center district. Written responses should be clear and concise. Return your completed survey in the enclosed business reply envelope by **May 31, 2002**.  
**Thank you so much for your time and input!**

***Please complete:***

Technology Center District:

Name of Person Completing Survey:

Title:

Phone:

E-mail:

### PART I: Disability Services

1. What are the support services available in your tech center district? (check one)
  - Federally mandated support services for all students with disabilities are provided (i.e. curriculum modifications, classroom modifications, equipment modifications, support personnel, and/or instructional aids/devices)
  - In addition to support services required by law, our district provides a significant level of additional, non-mandated support services. Please *check* all additional support services offered by your district:
    - Tutoring and other forms of personal assistance
    - Assessment (vocational, academic, personality, etc.)
    - Individual transportation
    - Specialized programs
    - Other: Please explain: \_\_\_\_\_
2. What is the number of staff persons employed in serving students with disabilities (include disability services and ADA/504 compliance personnel)?
  - \_\_\_ # Full-time professionals
  - \_\_\_ # Part-time professionals

- \_\_\_ # Full-time interpreters/real time captioners
- \_\_\_ # Part-time interpreters/real time captioners
- \_\_\_ # Full-time paraprofessionals/classroom assistants
- \_\_\_ # Part-time paraprofessionals/classroom assistants
- \_\_\_ # Other full-time support personnel (i.e. tutors, note takers, scribes, readers)
- \_\_\_ # Other part-time support personnel (i.e. tutors, note takers, scribes, readers)

**Program Services and Compliance Expenditures**  
**(Please insert numbers in appropriate rows and columns)**

Sources of Funding for Support Services and Compliance Activities	Total Expenditures			Physical Access Expenditures (Architectural and Structural barrier removal)			Support Services Expenditures			Assistive Technology Expenditures		
	FY99	FY00	FY01	FY99	FY00	FY-01	FY99	FY00	FY01	FY99	FY00	FY01
Local Funds												
Other Funds (i.e. grants, Perkins, etc.)												
<b>TOTAL</b>												

**PART II: Grievance Resolution**

- Please complete the table below. This information pertains to *each* grievance filed involving an individual with a disability during FY99, FY00, and/or FY01 in which the grievance was resolved using the local technology center grievance procedure.

Brief Description of Grievance	Year	Secondary or PS Student?	# of Weeks to Resolution	Appeal Filed?	# of Weeks to Resolution of Appeal	Cost (if any) of Resolution	Prevailing Party
1.	<input type="radio"/> FY99 <input type="radio"/> FY00 <input type="radio"/> FY01	<input type="radio"/> S <input type="radio"/> PS		<input type="radio"/> No <input type="radio"/> Yes			<input type="radio"/> Student <input type="radio"/> District <input type="radio"/> Both
2.	<input type="radio"/> FY99 <input type="radio"/> FY00 <input type="radio"/> FY01	<input type="radio"/> S <input type="radio"/> PS		<input type="radio"/> No <input type="radio"/> Yes			<input type="radio"/> Student <input type="radio"/> District <input type="radio"/> Both
3.	<input type="radio"/> FY99 <input type="radio"/> FY00 <input type="radio"/> FY01	<input type="radio"/> S <input type="radio"/> PS		<input type="radio"/> No <input type="radio"/> Yes			<input type="radio"/> Student <input type="radio"/> District <input type="radio"/> Both

- How many local technology center grievances involving students with disabilities are pending at your tech center? \_\_\_\_\_

2. What methods are used to disseminate information to students about local grievance processes? Check all that apply.

- Website
- Handbook/Pamphlets/Posters
- Orientation classes
- Other. Please describe: \_\_\_\_\_

4. Please complete the table below. This information pertains to complaints filed with the *U.S. Dept. of Education Office for Civil Rights* involving an individual with a disability during FY99, FY00, and/or FY01.

Brief Description of Complaint	Year	Secondary or PS Student?	Was this complaint also filed as a local technology center grievance or a request for due process hearing?	Cost (if any) of Resolution	Prevailing Party
1.	<input type="checkbox"/> FY99 <input type="checkbox"/> FY00 <input type="checkbox"/> FY01	<input type="checkbox"/> S <input type="checkbox"/> PS	<input type="checkbox"/> Local Grievance <input type="checkbox"/> Request for Due Process <input type="checkbox"/> Both <input type="checkbox"/> Neither		<input type="checkbox"/> Student <input type="checkbox"/> District <input type="checkbox"/> Both
2.	<input type="checkbox"/> FY99 <input type="checkbox"/> FY00 <input type="checkbox"/> FY01	<input type="checkbox"/> S <input type="checkbox"/> PS	<input type="checkbox"/> Local Grievance <input type="checkbox"/> Request for Due Process <input type="checkbox"/> Both <input type="checkbox"/> Neither		<input type="checkbox"/> Student <input type="checkbox"/> District <input type="checkbox"/> Both
3.	<input type="checkbox"/> FY99 <input type="checkbox"/> FY00 <input type="checkbox"/> FY01	<input type="checkbox"/> S <input type="checkbox"/> PS	<input type="checkbox"/> Local Grievance <input type="checkbox"/> Request for Due Process <input type="checkbox"/> Both <input type="checkbox"/> Neither		<input type="checkbox"/> Student <input type="checkbox"/> District <input type="checkbox"/> Both

5. How many complaints filed with the *Office of Civil Rights* that involve individuals with disabilities are still pending?

\_\_\_\_\_

6. Please complete the table below. This information pertains to due process hearing requests (secondary IDEA eligible students only) filed with the *Oklahoma Department of Education* during FY99, FY00, and/or FY01.

Brief Description of Request for Due Process	Year	Outcome of the Due Process Request	Was this request for due process also filed as a local technology center grievance or a complaint with the OCR?	Was the student's sending school also included in the request?	Cost (if any) of Resolution	Prevailing Party
1.	<input type="radio"/> FY99 <input type="radio"/> FY00 <input type="radio"/> FY01	<input type="radio"/> Resolved <input type="radio"/> Cancelled <input type="radio"/> Dismissed <input type="radio"/> Referred for Mediation	<input type="radio"/> Local Grievance <input type="radio"/> Complaint with OCR <input type="radio"/> Both <input type="radio"/> Neither	<input type="radio"/> Yes <input type="radio"/> No		<input type="radio"/> Student <input type="radio"/> District <input type="radio"/> Both
2.	<input type="radio"/> FY99 <input type="radio"/> FY00 <input type="radio"/> FY01	<input type="radio"/> Resolved <input type="radio"/> Cancelled <input type="radio"/> Dismissed <input type="radio"/> Referred for Mediation	<input type="radio"/> Local Grievance <input type="radio"/> Request for Due Process <input type="radio"/> Both <input type="radio"/> Neither	<input type="radio"/> Yes <input type="radio"/> No		<input type="radio"/> Student <input type="radio"/> District <input type="radio"/> Both
3.	<input type="radio"/> FY99 <input type="radio"/> FY00 <input type="radio"/> FY01	<input type="radio"/> Resolved <input type="radio"/> Canceled <input type="radio"/> Dismissed <input type="radio"/> Referred for Mediation	<input type="radio"/> Local Grievance <input type="radio"/> Request for Due Process <input type="radio"/> Both <input type="radio"/> Neither	<input type="radio"/> Yes <input type="radio"/> No		<input type="radio"/> Student <input type="radio"/> District <input type="radio"/> Both

7. How many requests for due process hearings are pending? \_\_\_\_\_

THANK YOU FOR COMPLETING THIS SURVEY.

PLEASE RETURN THE SURVEY IN THE ENCLOSED BUSINESS REPLY ENVELOPE BY MAY 31, 2002.



- Q20 With visiting with other parents in our town, we have heard numerous remarks about how Mrs. ( ) is not a kind person. This whole procedure put such a strain on us, the parents, we almost got a divorce over this ordeal.  
We now have ( ) at Willow Crest Hospital and Mrs. ( ) is trying to control him there with work. The hospital has asked us to get her off their backs.

**State Dept of Education**

**5**

- Q17 Provided honest information at the time the decision was made. Provided copies immediately after decision and not required an attorney to get copies of papers from school. If the school had disclosed the disability when they found out and made accommodations as needed.
- Q18 Just to make their lives miserable--it doesn't get my child what he needs.
- Q19B OCR-US Dept of Education
- Q20 The grievance process is a joke. I went to mediation with the goal of "resolving a dispute and left with my paperwork missing. As it turns out, the" papers of mine that were missing at mediation could have gotten a number of people fired for altering a signed document. The school repeatedly changed documents by refusing to provide copies of documents when they are signed and forcing attorney involvement to get copies. The System is set up to protect schools not give parents a way to obtain needed services for their children. If you think LD or ADHD or gifted kids are getting what they need to be successful--you are wrong.

**State Dept of Education**

**7**

- Q15B Parents of Oklahoma
- Q17 The school offered to allow my son to use an auditory hearing device. He used it for a while and his grades came up. It was dropped by accident and the school wanted me to pay for repair or replacement. Because I contacted a clinic to find out about repair, it was discovered during conversation that the school should provide a device for my son due to his diagnosis of central auditory processing dysfunction. It became a battle of wills instead of a let's help this child out. I was saddened to find that the most important person in the whole process ( my son) was lost in the paperwork, the red tape, and the power attitude of the staff at \_\_\_\_\_ Elementary. (Not all staff, just the ones who had the authority to make or break his chances of getting a 504 or special ed. teacher).
- Q20 I thank your staff for being so pleasant and helpful. Misty was always willing to explain procedures when I had questions. I am glad that the service is available. I do wish it could have helped us more. Thank You

**State Dept of Education**

**8**

- Q17 Teach the children!! Make sure they follow the terms of the agreement on 504 accommodations plans.
- Q20 Hire honest people to work at the Oklahoma State Department of Education! I tried for 9 days to speak to 2 different employees! I left several messages. Finally on the ninth day, I got one woman on the phone. She was rude and hateful! She claimed that she tried calling me, but couldn't get through because there was a block on my phone line. I contacted Southwestern Bell, there is no block on my phone line, and there's also not any service available in my area to do any such thing. I had the lady from the phone company send me a statement of the matter, but I didn't bother showing that to the hearing officer!

**State Dept of Education**

**9**

- Q17 Instead of all get the same. Look at each circumstance and do or make correction on the merit.

**State Dept of Education**

**10**

- Q17 I feel when there's a problem with a school, the state needs to help more with the parent. The school needs to know that they do not have the right to act like the parent or do not have a right to take part in an IEP or the school has the right to talk about how a child is doing in school to other people. Sometimes I feel like the state did not care how a parent feels.
- Q20 I feel like I was let down by the school and special state. State, I feel like went a parent wants some help for child that cannot talk for him or herself it's the parent that talks for a child, but sometime a parent feels like what right do they have. I feel like it is not right or fair that we the parent have to move to a new town to get the right kind of right kind of special ed. Were is the fair things that a parent has the right to be here not to be like what you have to stay does not better went your child school. Who would know that child more the school or the parent? I know I do not count but I am a caring Mother.

**State Dept of Education**

**11**

- Q17 The school in \_\_\_\_\_ does not wish to resolve my issue quickly. They try to wait until deadlines to hopefully outlast the child and their family."
- Q19B Protection Advocacy
- Q20 Yes, I am truly disappointed in my daughter's 13 years of education in the Oklahoma system. She left the system with little to none experience that will help her in the future. So many things could be done to help Sp. Services in our state. Even though my daughter is finished with \_\_\_\_\_, I am still and" will continue to be an advocate for anyone who needs assistance.

**State Dept of Education**

**12**

- Q17 They should have served my child and his peers in the first place, according to their rights, to be included in regular activities, classes, etc. with the " regular class population.
- Q20 I truly appreciate the help and support I received from Misty Kimbrough. She gave me all the information and help needed to expedite the complaint process. I appreciate her help. The school was found to be absolutely wrong on all complaints and, as a result this year I have a child who is included in the regular populace and is progressing well on his goals. I believe that when sp. Ed personnel are indifferent to the needs of the child education does not happen as was the case in our school! Thank You.

P.S. If my complaint will help others you may contact me if needed. I have no problem with being identified. I also believe that our education system for teachers is flawed!! If you want to improve education you need to start with teachers. There is too much focus on the money going into to colleges and universities and not enough on turning out good teachers. In my experience, the Universities as well as the Board of Regents are more concerned with money than they are education. The professional education classes should be given the highest priority as well as the student's teaching experience. Sometimes the overall grade point is not a good indication of a student's ability to teach. Maybe the focus should be more on the students grades in the professional block and his/her student teaching performance. I mention this from my own experience, and as a result, I have a child who has been exposed to teachers and directors who have little compassion or ability to relate to special needs students. Thank you for your attention and help. My son is doing much better.

**State Dept of Education**

**13**

- Q15B Oklahoma City Disability Law Firm
- Q17 Still have not met federal codes 504 and probably won't apply.
- Q20 " \_\_\_\_\_ Schools makes its own rules, to cover there lies and promises, not only my children, other children here also. Any of schools do not meet the Federal mandated codes, of 504, but its been paid for.

**State Dept of Education**

**14**

- Q4 My child will never attend a Oklahoma Public School again--only private
- Q14 To who?
- Q17 The Dept. of Education of the State of Oklahoma cannot police itself and its local districts. The outcome of any truthfully investigative report would be detrimental to both. Believe me, I will be here with my investigative response--when the walls come tumbling down . Hopefully, that will be very soon."
- Q18 Never, and I will advise anyone else also.
- Q19B US Dept of Ed. And it investigated and violations were found and remedied.

Q20 Turn the investigations over to people who care about the children and not the politics of the teachers, schools and unions. So far, the losers are the kids who already have 3 strikes against them for their disabilities--the Oklahoma Dept. of Ed is strike 4!

**State Dept of Education**

**15**

Q15B Disability Law Center

Q17 They could of investigated the classroom & teacher & Aides at \_\_\_\_\_ High School. But instead they transferred our son to \_\_\_\_\_ High School. They did nothing to the teacher for our Son being molested by another Student, and for the Teacher at \_\_\_\_\_ locking our son in a room with the temperature 108 degrees.

Q20 Yes we were very pleased with the program at \_\_\_\_\_ High School. The students were kept busy with work study out in the Public and at school. They have all the support of Staff at the school. \_\_\_\_\_ High School did nothing with the student but take them to the Park, and Teacher and Aide played cards. In classroom, student sat and Teacher and Aide played on computer, our Son is \_\_\_\_\_ . "

**State Dept of Education**

**16**

Q17 To be on the child's side To find all the facts. To exam the total situation before coming to the decision. To help not belittle, harass the child/parent.

Q20 You need to reorganize the state Special Ed. Especially the Superintendent in Bartlesville. Dr. \_\_\_\_\_, Dr. \_\_\_\_\_ all need to go, they lie, cheat, change to make the system for sports/academics students not special needs children.

**State Dept of Education**

**17**

Q4 Joke

Q20 \_\_\_\_\_ School for Blind only wants children that can function in a public school. Why are they there if they do not want to provide services to children that need it? I suggest you audit attendance records and why so many students have been exiled.

**State Dept of Education**

**18**

Q15B We could not proceed without an attorney.

Q17 The school district could have dealt in a straight forward and honest way with us. They could have believed our Drs. They could have used a real school psychologist to test him. Instead of spending 100's of thousands of dollars covering up their mistakes and the laws they were breaking, they could have given my Son services so he would not have tried to kill himself.

Q18B If forced into that position again.

Q19B Not until this due process, we have now filed with OCR on Teachers' Prep" & Ok St. License for LPC and others that concern the laws that were broken.

Q20 The due process maze is not something parents can work through without a law degree or a lawyer. Our experience with the complaint/grievance process began when our son cursed and made inappropriate comments to a teacher who was belittling him. This episode was preceded by another cursing outburst at a female school administrator who was physically searching my son for contraband which was not present. The school district decided this second incident required punishment. We (the parents) agreed that punishment was appropriate but were clueless as to the possible causes of the outbursts. We were bewildered by our son's behavior so we took him to a psychologist for an evaluation. His diagnosis was Tourettes Syndrome, Obsessive Compulsive Disorder, ADHD Hyperactivity, and chronic depression. One symptom of Tourettes is cursing outbursts when under emotional stress. School district personnel not only didn't believe us, but they said we hired a psychologist to keep our son from being disciplined. To make a long story short, the district would not adjust our son's punishment for the outbursts so we asked for a due process hearing. Twenty five months later it is still going on. The State Department of Education is well aware of this case and has all the information about it, if you would like to understand it more clearly.

The school district administrators are in a position of power. They know it and they use their power to bully and intimidate. They have knowledge of their responsibilities but because parents do not understand their rights or the rights of their children, the district takes advantage of them. Instead of an atmosphere of cooperation and helpfulness, the district takes the attitude that the parents and students will submit to their will and do so without question. The only way we could deal with this situation was to hire a lawyer experienced with educational laws regarding the disabled.

Here are some of our experiences:

1. The district would not entertain the possibility that something else caused our son's outbursts other than bad behavior even though he had absolutely no previous infractions all through his 11 years of public school.
2. The district insisted upon an extended punishment which ultimately came to 25 days.
3. The district refused to hear the psychologist who evaluated our son.
4. The district hired a person who was not a certified school psychologist to evaluate our son. This same person is employed by the school district to this day even though state educational authorities have found that her credentials/certification was received under fraudulent circumstances.
5. During the due process hearings the district's lawyer delayed the proceedings, used misinformation and outright lies, and tried to circumvent and frustrate the process.
6. The district's lawyer introduced personal nonrelevant information in an effort to discredit us as parents.
7. School administrative personnel, under oath, misrepresented facts and lied in many cases.

It is especially irksome that the law firm of Rosenstein, Fist & Ringold operates statewide and represents most of the Oklahoma school districts, including our own.

They appear to specialize in these types of cases which makes us wonder why there are enough of these kinds of cases to support a statewide law firm.

Our son eventually graduated from high school in a mental and emotional funk. His senior high school year was a disaster characterized by extreme emotional distress and an attempted suicide. The damage the district did to our son was unconscionable. After graduation from high school he attended college for one semester, and he failed. He has had extensive testing regarding his disabilities and continues now to see a psychologist weekly. He currently takes medication for his disorders including an antidepressant.

**State Dept of Education**

**19**

Q17 Parents requesting testing for special needs should be given formal applications and receive written acknowledgment from the school. I do not believe this condition has been put into place as yet.

Q20 I would like documentation that the Education Board has received from the \_\_\_\_\_ School System a record documenting every parent's request for aid in educational testing purposes. I strongly feel that a formal report be requested of schools receiving state or federal funds. This report could validate whether aid was offered or denied--oral denials should never be offered or considered as proper or legal procedures for these types of educational funds.

**Housing Finance Agency**

**21**

Q17 The agency could have realized that what happened was unknown to me and without my consent.

Q20 Yes. The agency condemns not guilty parties for the actions of others that happen when they are not present. I believe that this is basically wrong. The guilty should be punished, but the innocent should be left alone.

**Housing Finance Agency**

**22**

Q17 Given more forbearance of time and explanation while I was out of town and had no way of receiving a letter notifying me to know when to meet with my advisor.

Q20 Please know that there are different circumstances for everyone.

**Dept of Human Services**

**24**

Q17 Question all witnesses involved, do not modify original investigative results, answer honestly, take responsibility for any actions taken (No signatures as to when paperwork is going to or from)

Q20 I don't like this new process. I don't know who anything is going to or from. And all involved were not helpful. There is no one to take responsibility per the new grievance process!

**Dept. of Rehabilitation Serv.**

**25**

- Q15B Client assistant program failed to adequately represent my concerns and complaint.
- Q17 As a service under the IEP, the client of DRS should be given the right to "choice of an advocate paid for through the IEP. At the present time the DRS client has to combat with the Oklahoma Attorney Generals Office to obtain "DRS services in dispute, ""level the playing field."
- Q19B Mr. Stratton Taylor, Senator, US Dept. of Educ. Civil Rights, Oklahoma Human Rights Commission, DRS Complaint Process, RSA Grievance Against CAP.
- Q20 My name is \_\_\_\_\_, and I strongly believe that for the DRS clients who are being subjected to DRS complaint/grievance process, it is doubtful that survey would do anything to enhance directly a clients right to receive rehabilitation service. There exists a hearing decision which I was not directly a party to, however, the hearing officer was forced to render the wrong decision by DRS. See Hearing No. \_\_\_\_\_, to this matter the hearing officer issued a DICTA along with the decision.

**Dept. of Rehabilitation Serv.**

**26**

- Q17 Sent me to one of the agency's doctors.
- Q20 I tried to get financial help to go to college because of a football injury I had which cost me my job at Wal-Mart. I still can't do any intensive labor such as stocking because it eventually leads to painful joint movement, requiring therapy. I had stayed months in physical therapy which now leaves me unable to do strenuous work.

**Dept. of Rehabilitation Serv.**

**27**

- Q17 Researched before enrollment.
- Q20 The only legal complaint/grievance was the case of enrolling at \_\_\_\_\_. The person in charge of my case did not know that \_\_\_\_\_ was a private school, (a mistake). The Department of Rehabilitation was very fair. This has not been turned in as a complaint/grievance yet. I am having trouble with my office paying my bills. At \_\_\_\_\_ now, takes the monies held in my Pell Grant, and sends me what is left. This happened all year last year, which I was never reimbursed for what the school took from Pell. This 1st semester school took monies from Palled sent me what was left and to date 11-21-01, rehab has still not taken care of it. I have made calls to the school, sent letters, etc. I guess I will give up. I am thankful for all the help I have received for I would not be where I am today without rehab's help. I do not mean to sound ungrateful.

**State Dept of Education**

**28**

- Q15B Attorney
- Q17 The local school district did not seem to know--they kept blaming everything on the co-op saying they (local school) were not to blame.
- Q20 Due process is a farce. The local (home school) blamed everything on co-op and director. The co-op director blamed the home school district saying "home school district dropped

the ball. Co-op director stalled requested two delays, until my child finished 5th grade and moved to another school. Then complaints were invalid.

**State Dept of Education**

**29**

- Q17 Followed federal guidelines and procedures in the first place. Could have followed son's IEP.
- Q18 "As much as I would like to say no, that's part of the procedure. Although it" does no good when you do not get a fair hearing and the hearing officer is bias.
- Q20 Sent in letter she sent to Oklahoma Educ. Dept. and copy of the due process appeal review. (See Attachments)

**State Dept of Education**

**30**

- Q17 Considered other more appropriate placements outside the school when it was clear that they were unable to adequately serve the IEP.
- Q20 Sent in folder - (See Attached)

**State Dept of Education**

**31**

- Q17 Be fair to all parties involved. Start listening to the children because they are people too. Calling them liars and not believing a word they say only makes for more things down the road arise. When children get in trouble they both "should get into trouble not just one, and don't single only one child out because they don't like them!
- Q20 \_\_\_\_\_ schools are unfair and teachers and staff are one-sided. They stick up for each other to cover ones back. They are not there to help the children They don't like a kid and they single them out. They lie to the parents, and they are rude and hateful to the children. They promise things and don't stick to them. They don't know how to deal with children with disabilities and that is very stressful on a parent. If my children could go to a different school where they would be treated better. Because \_\_\_ schools are not.

**State Dept of Education**

**32**

- Q13 Portions of my April 6, 2000, complaint have been held in abeyance by the State. There has been no investigation, no ruling from through the complaint resolution systems. A judge is supposed to rule on these issues. I filed 3 formal complaints: 1) I withdrew after 30 days, 2) Filed April 16, 2000, - Decision 3) August 4, 2000, (but areas of complaint set aside by the State Dept of Education - No decision yet.
- Q17 Filed against school district. The school district could have followed the promises it made in our Settlement Agreement in a timely manner. They could have chosen to have followed the recommendations in a meaningful manner, the recommendations of their own consultant. I filed against the Oklahoma State Dept of Education. The State Dept of Education Special Education Staff could have spoken to me and explained their Special Ed policies and procedures and the standards that they use. They could have

investigated my whole complaint.

Q19B IDEA Complaint and School District; Office for Civil Rights- US Dept. of Ed.

Q20 Regarding the Oklahoma State Department of Education Staff: In comparison to the US Department of Education, Office for Civil Rights staff--the State Staff knows little about disabled children's educational rights. The Office for Civil Rights was able to provide me with extensive information. The actions of the office for Civil Rights helped my child. Whereas, the actions of the Oklahoma State Department of Education, Special Education Section, facilitated a more adversarial relationship between my family and the school district. The OSDE staff would not reveal to me what additional information would be relevant for me to submit to them to assist in their investigation. The response I continually received was that I could submit whatever I wanted. This was extremely frustrating as they wouldn't tell me what was needed. I was told to wait until I got the written decision.

When I finally got the written decision, it was not complete. The whole complaint was not investigated, and I could have provided documentation where it was written no documentation was provided by the parent on this issue, but the investigator had not requested me to submit that documentation. Subsequently, I filed another complaint with the Oklahoma State Department of Education--this time against the Special Education Section Staff of the Oklahoma State Department of Education alleging that the OSDE had not followed the Individuals with Disabilities Education Act (IDEA) in investigating my complaint. Guess what? The same investigator got to investigate himself. And guess what the outcome was? The investigator found no violations. The State Staffer/Investigator determined he had been compliant with the State policies. Assistant State Superintendent, \_\_\_\_\_ wrote to me, explaining the actions of the investigator, that the State Dept. of Education had to investigate all written allegations of violations of the "Individuals with Disabilities Act (IDEA). However, as \_\_\_\_\_ indicates, this apparently is not the case in Oklahoma.

My family has endured allegations of child abuse when my child was eight (Child Protective Service investigation--the DHS investigator was truly wonderful and made what could have been a horrid situation not so bad and very simple). My family has endured police reports filed by the paraprofessional of my then nine year old child with autism regarding his behavior at school. (Shouldn't the paraprofessional have had the proper skills and expertise and been properly supervised by certified school personnel and implementing an effective behavior plan designed for a child with autism instead of just keeping my child isolated in a small room for the majority of the school day? The Police detective was very helpful, the Office for Juvenile Affairs and the District Attorney's Office were knowledgeable about autism and were absolutely wonderful and extremely helpful. Their actions made "what could have been a devastating experience, something not so bad and" very simple.) My worst experience with a State agency to endure was in dealing with the Oklahoma State Department of Education, Special Ed Services Staff in attempting to obtain their assistance in helping my child--I was truly overwhelmed by their lack of truthfulness and lack of helpfulness.

My child now is receiving an appropriate education. This is due largely to the intervention of my remarkable school district superintendent who became committed to helping my child and a wonderful elementary school staff that is committed to helping all children and openly welcomed my child and my family into their school. Sometimes, miracles do happen. Today, my family and my School District enjoy an amicable relationship. We continue to have legal issues left over from our adversarial days to sort out, but hopefully someday they will be resolved. Of all the Oklahoma State Agencies I have dealt with, the Oklahoma State Department of Education is the least willing to help children with disabilities and the least knowledgeable regarding the needs of children with disabilities. As a taxpayer, I had thought that the State Department of Education Staff were public servants, whose job included ensuring my child's right to a free, appropriate public education. I was wrong. Other agencies were able to see the shortcomings of my child's previous educational situation, but the Okla. Department of Education, the sole state agency who had the power, the authority and the legal responsibility to correct the situation, chose not to."

**State Dept of Education**

**33**

- Q3 Hearing officer contacted parties separating--appeal officer didn't note this in review. Other areas of unprofessionalism and lack of training noted.
- Q12 I was involved in 2 due process hearing requests: #1) 8-99 I filed against the School District - this was settled. #2) 6-00 The School District filed against my child--this denied the school district a hearing. However, because the State Dept of Education Staff held in abeyance portions of my formal IDEA complaint and refused to investigate these allegations. I filed an appeal with the appeal officer ruled that portions held in abeyance must go before a judge in State District Court- the judge has not determined when he will hear the case.
- Q16B Attorney
- Q17 #1: The School District's Special Education told my husband and myself that the school did not do mediation. He said that I needed to file a due process hearing request. The Special Education Director told me that he would help me fill out the request. Instead, I searched and after a few months I was able to find a Special Education Attorney to help my child--then I let the attorney, instead of the Special Education Department fill out the form. #2. The School District filed a Due Process Hearing request against my child because I had filed a formal written IDEA complaint with Oklahoma State Dept of Education. The School District alleged my complaint was a breach of contract and was seeking monetary relief. The hearing officer dismissed the case. The School District filed a lawsuit against my family in District Court.
- Q19B IDEA Complaint with School District/US Dept of Education - Office for Civil Rights
- Q20 Succinctly, the Oklahoma State Dept of Education Due Process Hearing System is a whole bunch of nonsense. There are not set rules which are followed consistently by the hearing officers and ISDE staff. For example, the Guidelines state that only when a valid due process hearing request is received from a School District will it be passed to a hearing officer. In my experience, the OSDE passed an invalid request to a hearing

officer--This resulted in much confusion and unnecessary expenses. In addition to the hearing requests I was involved in, I have attended public due process hearings and the rules change and are not consistent. The Due Process Hearing Officer stated that his wife works as a Special Education teacher and apparently, the hearing officer was on familiar terms with various school administrators across the state. I am wondering how impartial he can be. Boards of Educations have ruled about nepotism and perhaps they should be applied to hearing officers too. Impartial hearing officers, who are well trained are needed regarding appeal officers. I think they need to be either eliminated or retrained to conduct proper reviews in accordance with the IDEA.

**State Dept of Education**

**34**

Q17 The school district could have worked with parents to provide what our child needed. Instead, the school district spent over \$100,000 on lawyers to fight us. There is something very wrong with the system when school district administrators spend those kind of dollars (funded by taxpayers) rather than using that money constructively. We went to mediation, we offered to meet the district half way. They did not offer anything. They preferred to litigate and try to grind the parents into submission.

Q20 This is my first experience with Oklahoma's due process hearing system. I was shocked by how bad it is. Below are some of the things I found:

1. The system is set up, overseen and run by the State Department of Education (SDE). The SDE has a stake in the outcome--under IDEA, the SDE is ultimately responsible for providing the free appropriate public education if the local school district does not. The SDE really has a conflict of interest, and it pervades the entire system.
2. The SDE employees are way too close to the local school district (LEA) employees and their attorneys. In our case, the school district's attorney knew who our assigned hearing officer was, and requested subpoenas be issued before the SDE had even sent out the formal notice to the parties. I have experienced numerous instances where the SDE is sharing information with the school districts and their lawyers. The due process hearing system should be taken out of the hands of the SDE and set up to run independently. This is the only way to ensure fairness and avoid the SDE's conflict of interest.
3. The SDE selects and trains the hearing officers. Parents and/or child advocacy groups have no input into this process. Again, the SDE has a "vested interest in the outcome of the due process hearing. The SDE has gone out of its way to select ultra conservative hearing officers who are loathe to rule against the interest of the LEA and SDE. The hearing officers serve at the pleasure of the SDE: Why would the SDE select a hearing officer who "rules contrary to the interest of the LEA/SDE? They don't. As stated above,"the entire process needs to be scrapped and begun anew, with an independent party or agency overseeing the entire system--including the selection and training of the hearing officers.
4. The SDE was utilizing only one hearing officer. This resulted in a situation in which the hearing officer could not and did not start and finish a hearing and render

a decision in 45 days, as mandated by IDEA. Our case took 6 months. Even after the hearing ended, the hearing officer took 2 months to render a written decision. Yet, the SDE continues to use that hearing officer, even though she has a history of ignoring the statutory deadlines.

5. The hearing officers need to be trained jurists with law degrees. Our hearing officer was pitiful. She knew nothing about evidentiary rules. She let the hearing go on and on and didn't limit the introduction of testimony or exhibits whatsoever. These hearings should be expedient and inexpensive. The school district has lawyers paid with public funds, the parent does not letting these hearings go on forever, and be litigated ad nauseam is unfair to parents who have to hire their own lawyer and is certainly not in the child's best interest. We must remember that IDEA was passed to bestow and ensure rights to disabled children, not to school districts. Someone needs to take a very serious look at the system and make sure it is doing what it was intended to do--provide a fast, inexpensive, fair and impartial adjudication of the child's rights. The SDE's current system is anything but that.
6. The SDE is providing no active oversight of the hearing officer or the process. Currently there is nothing a parent can do if the assigned hearing officer is not following the SDE's own rules and guidelines. If the SDE will not police its system, who will?
7. The system needs to be revamped to ensure a fair and impartial hearing. Hearing officers should be assigned to a particular case randomly. However, under the current SDE system, the SDE picks the hearing officer for each case. This does not pass the smell test. As mentioned above, the year we had our hearing, the SDE was assigning a single hearing officer to virtually every case. That system created an economic incentive for the hearing officer to rule in favor of the LEA/SDE, to ensure her continued and frequent use.
8. The SDE needs to provide adequate funding to set up a professional cadre of administrative law judges who will be specialists in IDEA law and who know law. These people will have to be adequately compensated so they will be motivated to accept the responsibility and do a thorough job. There may not be enough hearings a year to warrant full time ALJs, but they certainly should be on salary and have adequate time to commit to the cases.
9. The current system is fundamentally unfair to parents. The school districts know this and their lawyers try to litigate the parents to death. There needs to be adopted some procedural safeguards to limit the scope and amount of pre-trial discovery in these proceedings. Unless the state is going to fund lawyers for parents, it will never be a level playing field. But certainly there are a number of things which could be done to ensure that a parent does not have to take out a second mortgage in order to be represented and protect the child's rights.
10. The fox has been guarding the hen house for far too long in Oklahoma's due process hearing system. Imagine the reaction if anytime someone sued General Motors, GM got to recruit, train and pick the judge to hear the case. Of course, no one would ever even think of getting away with such--but that's precisely what is going on in our state's due process hearing system. IDEA requires the State of Oklahoma to provide a due process hearing system for grievances under IDEA.

However, that does not mean that the SDE has to be the agency running the system. As stated above, the SDE has an inherent conflict of interest. The best thing that could be done would be to take the responsibility out of the SDE's hands and have a system which is truly independent and fair.

**State Dept of Education**

**35**

Q20 I have filed 3 written complaints with the SDE. All three concerned the SDE's due process hearing system. Two have not been resolved. One of those was initiated in May, 2000, and is still not resolved. It is my observation and belief that filing a complaint with the SDE about something that the SDE has caused or is responsible for is a total waste of time. The SDE has no interest in investigating itself. What remedy would obtain, in any event? The SDE's attitude is to stonewall and to sweep things under the carpet. I have been extremely disappointed in the written complaint system, and I doubt that I would access it in the future because I have seen that it's a waste of time--the SDE has no real interest in changing the way it operates.

**State Dept of Education**

**36**

Q10 By some

Q12 For minor son

Q20 I am responding to the survey that was recently sent to me concerning the grievance process with \_\_\_\_\_ Public Schools. Although the process allowed my husband and I to voice our opinions and concerns regarding our hearing impaired son it did resolve our issues with the district. We chose to place him in the facility of our choice without their support or commitment. We decided to request mediation because the district said that no services would be given if we chose to place him in the regular preschool opposed to placement with other handicapped children.

When my husband and I arrived at the mediation we discovered that the \_\_\_\_\_ Public Schools had brought seven people to the meeting. I feel this did this in an attempt to intimidate and harass us. I was pleased when the mediator told them that only three people would be allowed to sit in on the meeting. I was pleased to be able to vocalize my viewpoints, but I do not feel that there was any change as a result of the mediation.

If anything, I feel that by formally complaining we placed barriers on our further communication. I feel well-versed in the needs and rights of my child, but feel that the school system would prefer to have control over their educational placement. Although officially on record my husband and I are part of the team, I do not feel that this is put into practice. I further feel that I frequently have to go to bat for my child and that the bottom line in the school system is money.

In response to question 17, I think that \_\_\_\_\_ Schools should have agreed to place my child in a preschool program with non-disabled children. He had attended school with deaf children and was very successful, but it was documented from an early age that he would be able to attend regular school. Other hearing-impaired children had access to preschool, but \_\_\_\_\_ suggested that my son attend preschool with other disabled children.

We felt that he needed an opportunity to interact with non-disabled children with normal speech since this would be the case when he began kindergarten. \_\_\_\_\_ told us that his speech services would be discontinued if we chose to place him in a private preschool. I feel that \_\_\_\_\_ should have placed him in the program because it was the best place for him. It was \$600.00 for "the entire school year, much less than a year in the preschool program \_\_\_\_\_ has in their district. The district could have agreed to this and could have avoided mediation.

Recently, after having concerns regarding my child's teacher, I was sent a letter from the principal that the team did not agree with me. It was my understanding that I was part of the team. The school is more likely to make me feel like an intruder on my child's education needs. I realize that at times I am extremely assertive and that I have even higher expectations, but I feel that this is partly why my child has been so successful.

Not only do I see these things occur with my child, but in my job as well. I am a teacher and feel that parents are not given complete information and assistance in helping their children. I have access to information because I am a teacher, but I also use the Pro-Oklahoma Organization to better educate me in the rights of my child.

I do not believe that parents and children should be at the mercy of the school system. We are not the enemy. I have made a commitment to my child and his needs. The schools do not always have the right answer, and I feel that my ideas and opinions should have more weight. I appreciate this chance to voice my opinions and I hope that they will benefit other children and parents who have the long hard road of educating their disabled children. Thank you for your time.

## State Dept of Education

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- Q1 The process inherently favors a school district
- Q2 I do not consider more than one and a half years from beginning to end timely!
- Q3 Better question would have been was the hearing officer qualified to understand/deal with the issue presented.
- Q4 The mediation process favored the district.
- Q5 At best, the staff was pejorative.
- Q6 No. The staff I dealt with hid information located in discovery via a subpoena.
- Q8 The fact that a hearing officer could take over 7 months to mull over her decision before delivering it was not explained to me.
- Q9 Not just for my child, but because I am a teacher who dared to do this.
- Q10 I was treated with disdain at times.
- Q11 No, even though we prevailed, the District is intransigent.
- Q13 About 16 months
- Q14 Yes, even though we prevailed. There were areas that I felt the Hearing Officer's lack of qualification contributed to her confusing and sometimes conflicting decision.

Q15 Yes. I hired an attorney. As a teacher I know a parent should never go up against a district without an attorney! The process itself is so inherently legal that laymen need to have legal advice to make their way through it.

Q16 Yes

Q17 Where do I begin? I am dealing with a district that knowingly hid test information from me and only produced it 7 months later when they were facing charges of knowingly violated FERPA! The District could have avoided the need for due process if it:

Had an open house where the District had to provide copies of its written policies and procedures for the referral process, testing process and qualification process for children with specific learning disabilities or children who could qualify under OHI to parents. Empowering parents with District policies and procedures is necessary for trust. It took a subpoena for me to get public documents from a public school district! When I finally received a copy of the District's implementation plan and discovered the District had an established policy that--if followed--would have triggered their internal referral process for my child I was shocked. When a teacher testified in Due Process that she did not use the internal referral process because she did not want to be held accountable, I was furious!

The District could have avoided the need for a due process if they changed their attitude about meeting the needs of gifted learning disabled students.

The District could have avoided the need for a due process if they offered a continuum of services for students instead of offering an all or nothing program. Collaboration with special education and regular classroom teachers must be available.

The District could have avoided Due Process if they hadn't stated that their attorney told them it was alright to destroy my child's test protocol preventing an independent evaluation prior to my child's first eligibility meeting. [The proverbial straw that broke the camel's back!!!]

The District could have avoided Due Process if they had written a 504 accommodation plan that lasted more than two weeks and didn't place the responsibility for remediation on the parent at home instead of in school with qualified personnel.

Q18 I will have to. I don't want to, but I'll have to! The district I am dealing with has made it abundantly clear they do not agree with the decision of the hearing officer. I am bracing myself for their denying eligibility at the end of this year.

Q19 No. The staff I dealt with hid information located in discovery via a subpoena.

Q20 Districts have almost unlimited resources that allow them to delay or prolong due process. As of last January, the District I am dealing with had already spent \$120,000 in attorney fees in their battle against us! They're still delaying even though they've lost. Why--because they have tax dollars at their disposal. How about having a state fund available to parents to pay for their advocates? Funding parents in the due process would help level the playing field. After all, our children make up the districts! It is unfair that school districts have access to large amounts of tax dollars and parents do not. This puts any district at a high advantage!

There needs to be some way of tightening the monitoring of Districts. As long as Districts get to report whether they are complying with Federal/State law you will not get a true picture of the very real struggles going on between parents and districts. You need to have monitors with knowledge of the inner workings of school districts and who are not easily swayed by outward appearances. You could gain valuable insight into how districts avoid identifying students if you held hearings for parents and educators to tell you about the tactics used by Districts to prevent identification and placement. However, unless participants in such hearings could be guaranteed anonymity, I don't think you'll get anyone to show up. As a teacher, I am far too familiar with the tactics used to keep special education numbers down. There are those of us so fed up we want something done. But we fear district retaliation would be awful.

**Dept. of Rehabilitation Serv.**

**38**

- Q1 At the state level.
- Q2 At the state level.
- Q4 No formal mediation. Had no choice but to take to a fair hearing.
- Q5 Only at the state level. Falsification of documentation occurred in the \_\_\_\_\_ office as proved by evidence at the State Level Fair Hearing.
- Q6 Only at the state level.
- Q8 By the State Client Assistance Protection Agency (CAPS)
- Q9 I hope not, but they have been mean spirited in the past.
- Q10 At the state level only. Below the state they had a bullying attitude.
- Q11 I feel my complaint was handled well at the State level. I felt the handling of "my complaint at the county level was unprofessional, dishonest, threatening," unlawful!
- Q17 For everyone involved at the county and district level to come to the table honest, follow written procedures, be willing to mediate.
- Q19B LEA (Local Education Agency)
- Q20 I feel it was comments and communication between our (LEA) High School special education director and rehab counselor that brought about this problem to begin with. I feel that it was retaliatory on the part of the LEA, due to having gone to due process with the LEA.

I was very happy with my treatment by Linda Parker and the Assistant D.A. who was involved in my hearing. Her assistant, a man with a doctor's degree, prolonged the process by not following through. I found his attitude demeaning to persons with disabilities!

Thank you for your effort to help persons with disabilities.

**Task Force to Review the Complaint System  
for Persons with Disabilities (HB 1401)**

**SURVEY RESULTS**

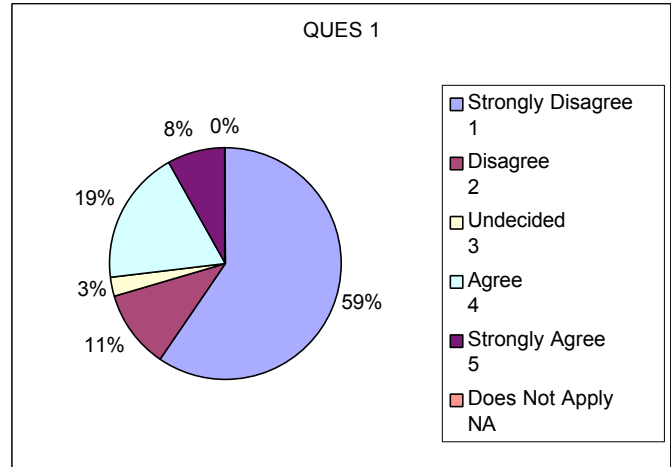
**Number of Completed Surveys by Agency**

Department of Human Services	1
Department of Rehabilitation Services	4
Housing Finance Agency	4
State Department of Education	
Due Process Hearing	14
Written Complaint Survey	15
Total Processed as of 12/11/01	38

## Review Complaint System - Survey Results

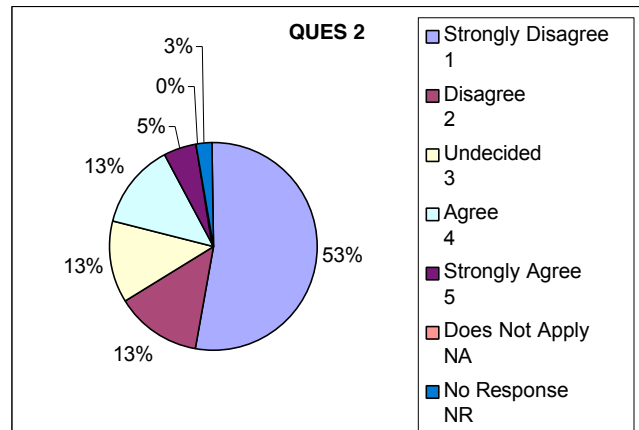
**\_\_\_\_\_ 1. Overall, I am satisfied with the process used for my complaint/grievance.**

	QUES 1	QUES 1	
Strongly Disagree	1	22	58%
Disagree	2	4	11%
Undecided	3	1	3%
Agree	4	7	18%
Strongly Agree	5	3	8%
Does Not Apply	NA	0	0%
No Response	NR	1	3%
		38	100%



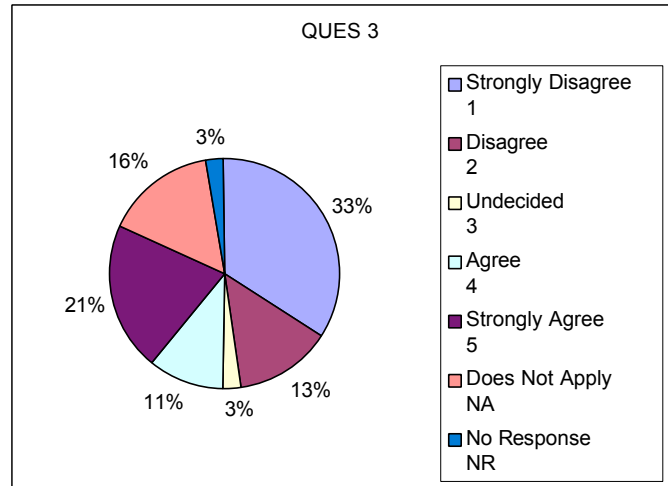
**\_\_\_\_\_ 2. I feel the time taken to settle the complaint/grievance was appropriate.**

	QUES 2	QUES 2	
Strongly Disagree	1	20	53%
Disagree	2	5	13%
Undecided	3	5	13%
Agree	4	5	13%
Strongly Agree	5	2	5%
Does Not Apply	NA	0	0%
No Response	NR	1	3%
		38	100%



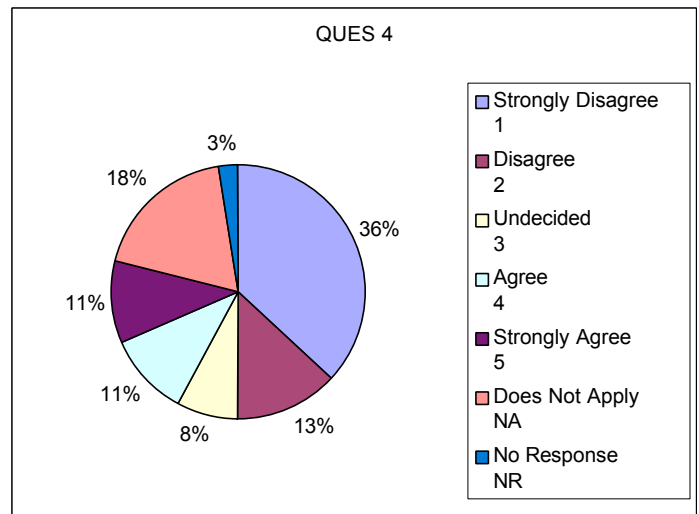
**3. I feel the hearing officer was fair.**

	QUES 3	QUES 3	QUES 3
Strongly Disagree	1	13	34%
Disagree	2	5	13%
Undecided	3	1	3%
Agree	4	4	11%
Strongly Agree	5	8	21%
Does Not Apply	NA	6	16%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



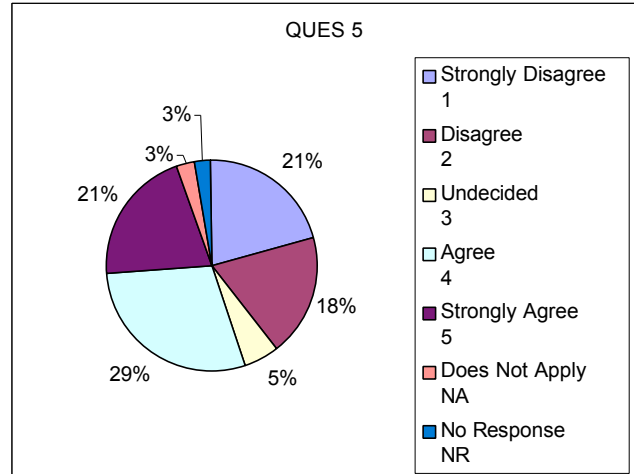
**4. I feel the mediation process was fair.**

	QUES 4	QUES 4	QUES 4
Strongly Disagree	1	14	37%
Disagree	2	5	13%
Undecided	3	3	8%
Agree	4	4	11%
Strongly Agree	5	4	11%
Does Not Apply	NA	7	18%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



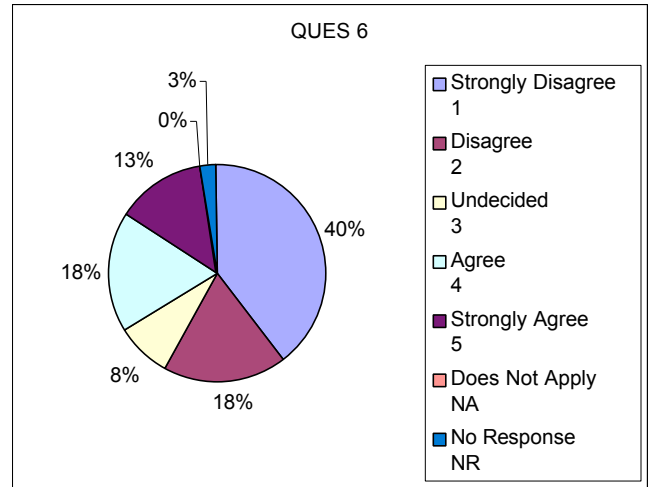
\_\_\_\_\_ 5. I feel the staff involved in the complaint/grievance were polite.

	QUES 5	QUES 5	QUES 5
Strongly Disagree	1	8	21%
Disagree	2	7	18%
Undecided	3	2	5%
Agree	4	11	29%
Strongly Agree	5	8	21%
Does Not Apply	NA	1	3%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



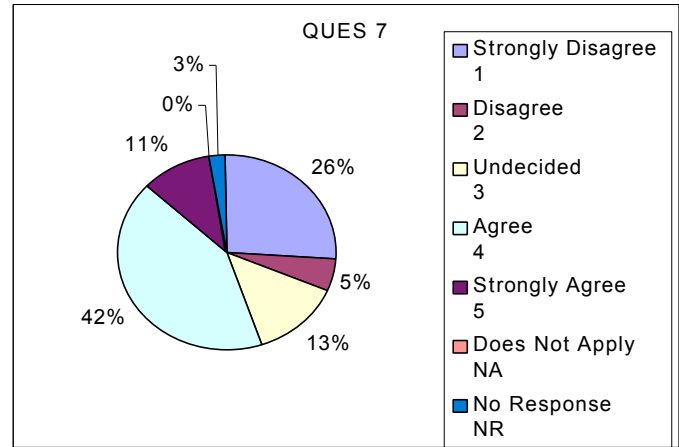
\_\_\_\_\_ 6. I received good communication from the staff handling my complaint/grievance.

	QUES 6	QUES 6	QUES 6
Strongly Disagree	1	15	39%
Disagree	2	7	18%
Undecided	3	3	8%
Agree	4	7	18%
Strongly Agree	5	5	13%
Does Not Apply	NA	0	0%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



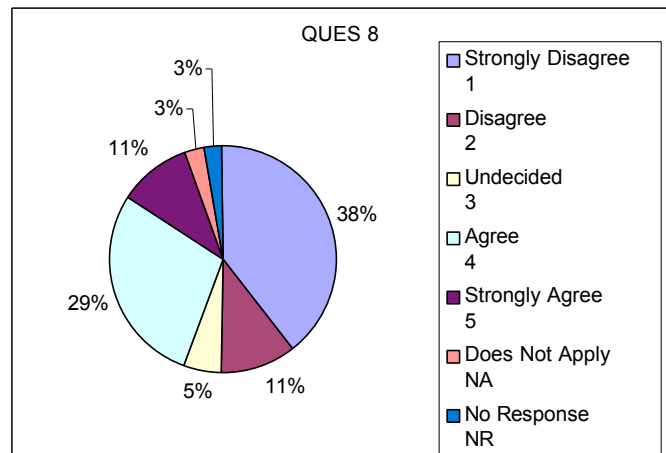
\_\_\_ 7. **I was aware of my rights before the complaint/grievance.**

	QUES 7	QUES 7	QUES 7
Strongly Disagree	1	10	26%
Disagree	2	2	5%
Undecided	3	5	13%
Agree	4	16	42%
Strongly Agree	5	4	11%
Does Not Apply	NA	0	0%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



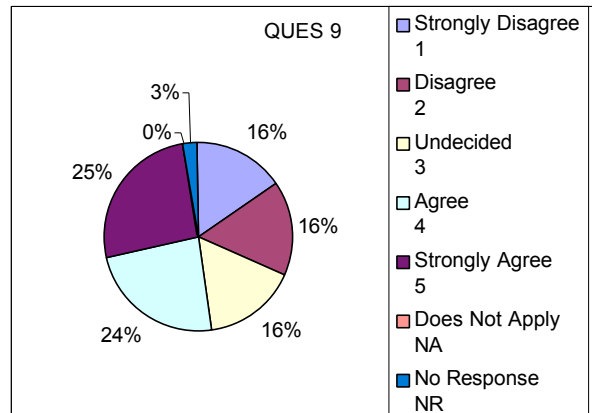
\_\_\_ 8. **The complaint/grievance process was explained clearly to me.**

	QUES 8	QUES 8	QUES 8
Strongly Disagree	1	15	39%
Disagree	2	4	11%
Undecided	3	2	5%
Agree	4	11	29%
Strongly Agree	5	4	11%
Does Not Apply	NA	1	3%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



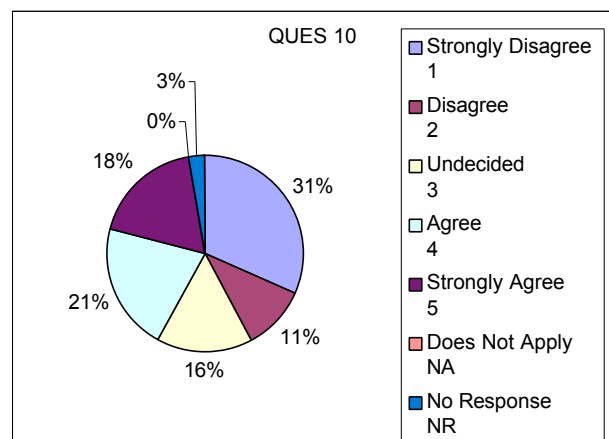
**9. I feel there will be retaliation from the filing of my complaint/grievance.**

	QUES 9	QUES 9	QUES 9
Strongly Disagree	1	6	16%
Disagree	2	6	16%
Undecided	3	6	16%
Agree	4	9	24%
Strongly Agree	5	10	26%
Does Not Apply	NA	0	0%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



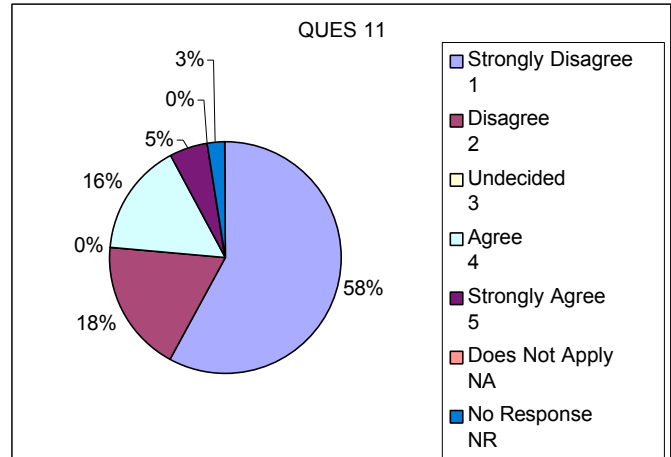
**10. I was treated with respect during the complaint/grievance.**

	QUES 10	QUES 10	QUES 10
Strongly Disagree	1	12	32%
Disagree	2	4	11%
Undecided	3	6	16%
Agree	4	8	21%
Strongly Agree	5	7	18%
Does Not Apply	NA	0	0%
No Response	NR	1	3%
		<u>38</u>	<u>100%</u>



**11. Overall, I am satisfied with the outcome of my complaint/grievance.**

	QUES 11	QUES 11	QUES 11
Strongly Disagree	1	22	58%
Disagree	2	7	18%
Undecided	3	0	0%
Agree	4	6	16%
Strongly Agree	5	2	5%
Does Not Apply	NA	0	0%
No Response	NR	1	3%
		<b>38</b>	<b>100%</b>

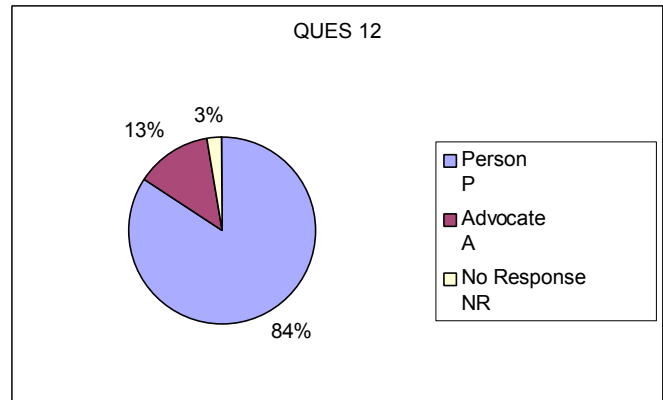


**12. Are you...**

**Person who filed the complaint/grievance.**

**Advocate for person who filed the complaint/grievance.**

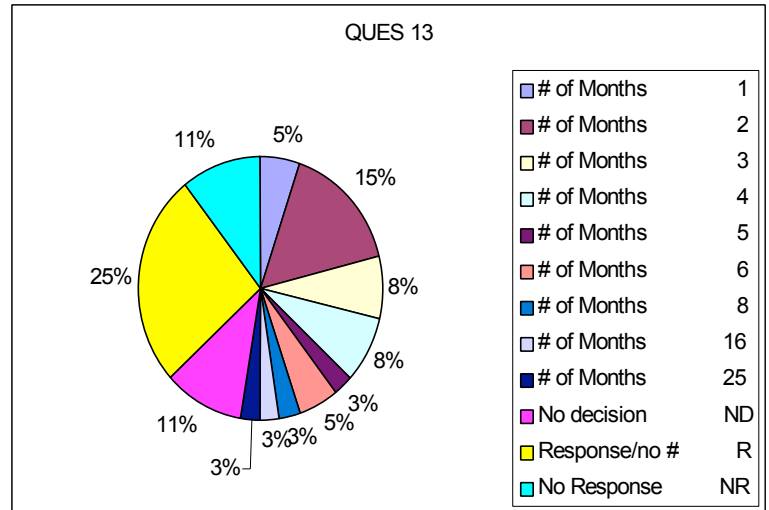
	QUES 12	QUES 12	QUES 12
Person	P	32	84%
Advocate	A	5	13%
No Response	NR	1	3%
		<b>38</b>	<b>100%</b>



**13. How long from the date you filed your complaint/grievance until you received a final written decision from {Agency Name}?**

\_\_\_\_\_ Months                      No decision received yet.

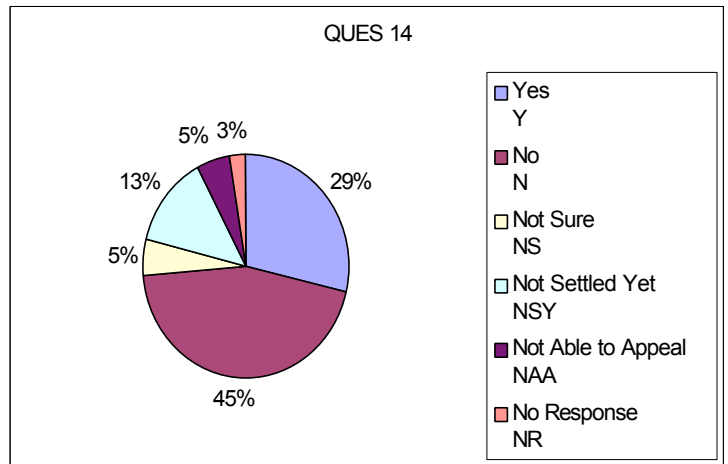
	QUES 13	QUES 13	
# of Months	1	2	5%
# of Months	2	6	16%
# of Months	3	3	8%
# of Months	4	3	8%
# of Months	5	1	3%
# of Months	6	2	5%
# of Months	8	1	3%
# of Months	16	1	3%
# of Months	25	1	3%
No decision	ND	4	11%
Response/no #	R	10	26%
No Response	NR	4	11%
		<b>38</b>	<b>100%</b>



**14. Did you appeal the outcome of the complaint/grievance?**

Yes                      No                      Not sure                      Not settled yet                      Not able to appeal

	QUES 14	QUES 14	
Yes	Y	11	29%
No	N	17	45%
Not Sure	NS	2	5%
Not Settled Yet	NSY	5	13%
Not Able to Appeal	NAA	2	5%
No Response	NR	1	3%
		<b>38</b>	<b>100%</b>

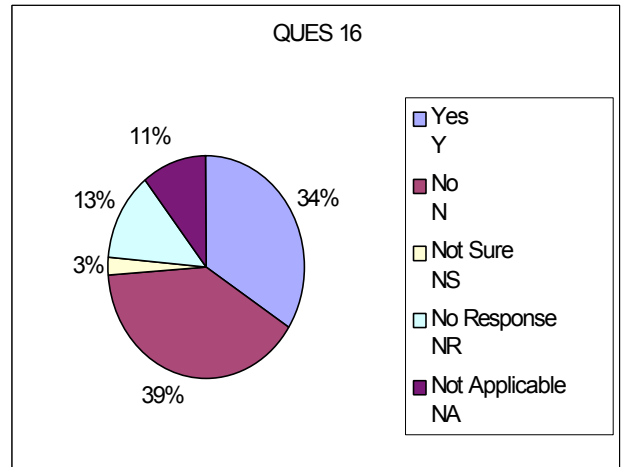




**16. Was the assistance you received helpful?**

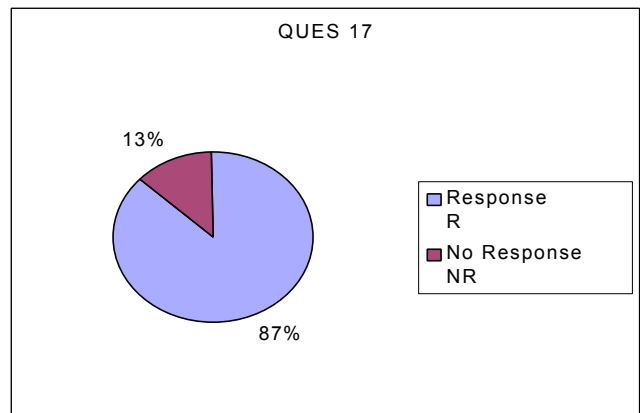
**Yes                  No                  Not sure**

		QUES 16	QUES 16
Yes	Y	13	34%
No	N	15	39%
Not Sure	NS	1	3%
No Response	NR	5	13%
Not Applicable	NA	4	11%
		<u>38</u>	<u>100%</u>



**17. What action could the agency have taken to resolve the complaint/grievance and avoided the need for a hearing and/or request for complaint investigation?**

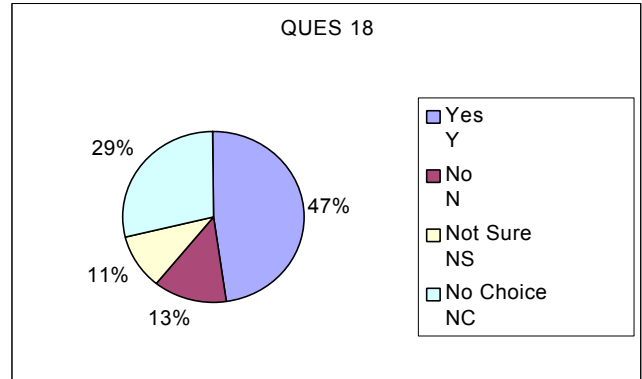
		QUES 17	QUES 17
Response	R	33	87%
No Response	NR	5	13%
		<u>38</u>	<u>100%</u>



**18. Would you utilize the complaint process of {Agency Name} again?**

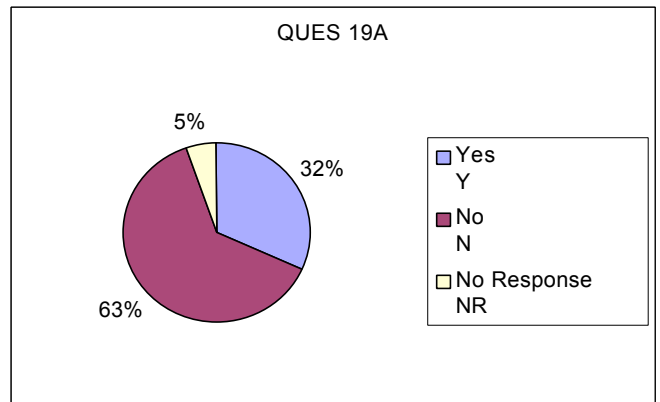
**Yes                      No                      Not sure                      No choice**

	QUES 18	QUES 18	QUES 18
Yes	Y	18	47%
No	N	5	13%
Not Sure	NS	4	11%
No Choice	NC	11	29%
		<u>38</u>	<u>100%</u>



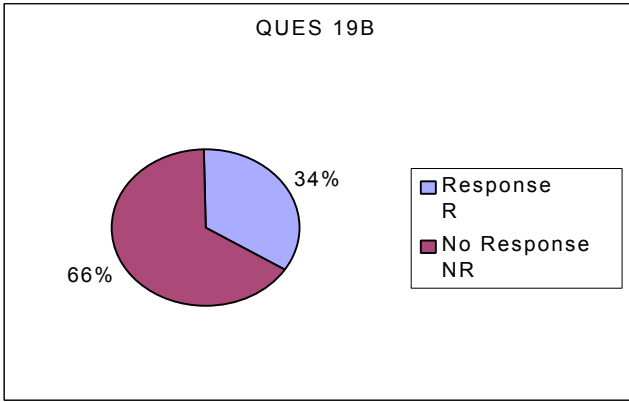
**19A. Have you ever filed a complaint/grievance with any other agency?      Yes      No**

	QUES 19A	QUES 19A	QUES 19A
Yes	Y	12	32%
No	N	24	63%
No Response	NR	2	5%
		<u>38</u>	<u>100%</u>



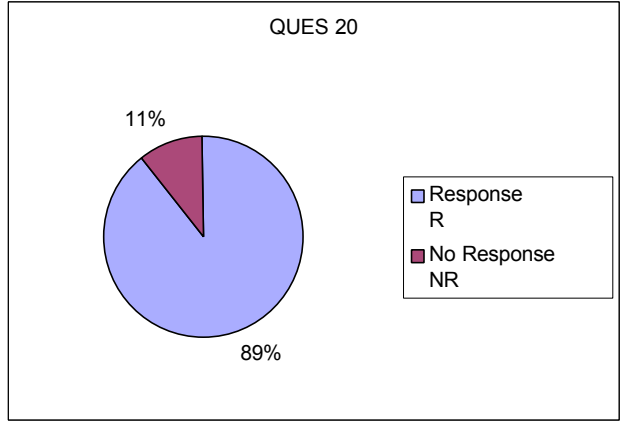
**19B. If yes, who?** \_\_\_\_\_

		QUES 19B	QUES 19B
Response	R	13	34%
No Response	NR	25	66%
		38	100%



**20. Do you have any additional comments?**

		QUES 20	QUES 20
Response	R	34	89%
No Response	NR	4	11%
		38	100%



ENROLLED HOUSE  
BILL NO. 2356

By: Lindley, Greenwood, Webb,  
Wright, Adkins, Ostrander,  
Piatt, Culver, Glover, Cox,  
Coleman, Vaughn, Calvey,  
Claunch, Collins, Gilbert,  
Hefner, Liotta, Mass,  
Seikel, Sellers,  
Thornbrugh, Wells,  
Braddock, McCarter, Covey,  
Turner and Easley of the  
House

and

Cain of the Senate

An Act relating to state government; creating the Task Force to Review the Complaint System for Persons with Disabilities; requiring cooperation; providing membership, appointments, qualifications, and setting certain time limits; providing for appointment of cochairs; providing for vacancies; providing for meetings; providing for travel reimbursement; providing for staffing; requiring a report; providing for duties; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 169.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until June 30, 2001, the Task Force to Review the Complaint System for Persons with Disabilities. The Task Force shall conduct a thorough review of the procedures for reporting and resolving complaints regarding access to programs and services by persons with disabilities within various governmental entities in Oklahoma and shall recommend any changes necessary to improve the system based on its findings.

B. All departments, officers, agencies and employees of this state shall cooperate with the Task Force in fulfilling its duties and responsibilities including, but not limited to, providing any information, records or reports requested by the Task Force.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 169.2a of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Task Force to Review the Complaint System for Persons with Disabilities shall be composed of twenty-two (22) members as follows:

1. The Chair of the Human Services Committee of the Oklahoma House of Representatives, or a designee;

2. The Chair of the Human Resources Committee of the Oklahoma State Senate, or a designee;

3. The Director of the Department of Human Services, or a designee;

4. The State Commissioner of Health, or a designee;

5. The Commissioner of Mental Health and Substance Abuse Services, or a designee;

6. The Chief Executive Officer of the Oklahoma Health Care Authority, or a designee;

7. The Director of the State Department of Rehabilitation Services, or a designee;

8. The Director of the Office of Handicapped Concerns, or a designee;

9. The State Superintendent of Public Instruction, or a designee;

10. The Chancellor of the Oklahoma State Regents for Higher Education, or a designee;

11. The State Director of the Oklahoma Department of Vocational and Technical Education, or a designee;

12. The Director of the Oklahoma Commission on Children and Youth, or a designee;

13. The Director of the Oklahoma Client Assistance Program, or a designee;

14. An individual, appointed by the Governor, with an acquired severe disability;

15. Two individuals, appointed by the Director of the State Department of Rehabilitation Services, representing advocacy organizations for persons with severe disabilities;

16. The Chair of the Oklahoma Traumatic Neurological Injury Advisory Council, or a designee;

17. The Executive Director of the Oklahoma Housing Finance Agency, or a designee;

18. The Director of Oklahoma ABLE Tech, or a designee;

19. A representative from the Adult Protective Services Program within the Department of Human Services, appointed by the Director of Human Services;

20. The Chair of the Statewide Independent Living Council of Oklahoma, or a designee; and

21. The Chair of the Cerebral Palsy Commission, or a designee.

B. 1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint one member of the Task Force to serve as a cochair until June 30, 2001. A vacancy in such office shall be filled in the same manner as the original appointment. A majority of the members of the Task Force shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Task Force. A vacancy on the Task Force shall be filled for the unexpired term in the same manner as the original appointment.

2. Appointments to the Task Force shall be made as soon as reasonably possible after the effective date of this act. The cochairs shall convene and preside over the first meeting as soon as reasonably possible after their appointment. Thereafter, the Task Force may meet once each month and at such other times as set by the cochairs.

3. The proceedings of all meetings of the Task Force shall comply with the provisions of the Oklahoma Open Meeting Act.

C. Members of the Task Force shall receive no compensation for serving on the Task Force, but shall receive travel reimbursement as follows:

1. Legislative members of the Task Force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes;

2. Nonlegislative members of the Task Force shall be reimbursed by their respective agencies for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act; and

3. Members of the Task Force who are not otherwise officers or employees of the state shall be reimbursed by the Office of the Governor in accordance with the State Travel Reimbursement Act.

D. The Task Force may divide into subcommittees in furtherance of its purposes. The Department of Human Services and the State Department of Rehabilitation Services shall jointly provide such staff support as is required by the Task Force or any of its subcommittees.

E. The Task Force shall issue a report of its findings and recommendations to the Legislature and the Governor on or before January 15, 2001.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 169.2b of Title 74, unless there is created a duplication in numbering, reads as follows:

The Task Force to Review the Complaint System for Persons with Disabilities shall have the power and authority to:

1. Examine and assess current grievance procedures and hearing processes utilized by governmental entities with regard to complaints filed by or on behalf of persons with disabilities;
2. Review the number, types and nature of such complaints;
3. Evaluate the response time of governmental entities to such complaints, and the time period for resolution of such complaints or grievances;
4. Assess client/consumer satisfaction with regard to current grievance procedures and hearing processes;
5. Identify and assess gaps and barriers to access to services for persons with disabilities in this state;
6. Recommend improvements to complaint system procedures used by governmental entities for persons with disabilities including, but not limited to, modification of existing policies, rules, guidelines and procedures governing the complaint system; and
7. Perform all other tasks necessary to accomplish the purposes of this act.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 27th day of April, 2000.

\_\_\_\_\_  
Speaker of the House of  
Representatives

Passed the Senate the 5th day of April, 2000.

\_\_\_\_\_  
President of the Senate

ENROLLED HOUSE  
BILL NO. 1401

By: Lindley and Balkman of the  
House

and

Cain of the Senate

An Act relating to persons with disabilities; amending Section 1, Chapter 179, O.S.L. 2000 and Section 2, Chapter 179, O.S.L. 2000 (74 O.S. Supp. 2000, Sections 169.2 and 169.2a), which relate to the Complaint Review System Task Force for Persons with Disabilities; extending Task Force; updating dates and name; requiring a report; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 179, O.S.L. 2000 (74 O.S. Supp. 2000, Section 169.2), is amended to read as follows:

Section 169.2 A. There is hereby created, to continue until June 30, ~~2001~~ 2002, the Task Force to Review the Complaint System for Persons with Disabilities. The Task Force shall conduct a thorough review of the procedures for reporting and resolving complaints regarding access to programs and services by persons with disabilities within various governmental entities in Oklahoma and shall recommend any changes necessary to improve the system based on its findings.

B. All departments, officers, agencies and employees of this state shall cooperate with the Task Force in fulfilling its duties and responsibilities including, but not limited to, providing any information, records or reports requested by the Task Force.

SECTION 2. AMENDATORY Section 2, Chapter 179, O.S.L. 2000 (74 O.S. Supp. 2000, Section 169.2a), is amended to read as follows:

169.2a A. The Task Force to Review the Complaint System for Persons with Disabilities shall be composed of twenty-two (22) members as follows:

1. The Chair of the Human Services Committee of the Oklahoma House of Representatives, or a designee;

2. The Chair of the Human Resources Committee of the Oklahoma State Senate, or a designee;

3. The Director of the Department of Human Services, or a designee;

4. The State Commissioner of Health, or a designee;

5. The Commissioner of Mental Health and Substance Abuse Services, or a designee;

6. The Chief Executive Officer of the Oklahoma Health Care Authority, or a designee;

7. The Director of the State Department of Rehabilitation Services, or a designee;

8. The Director of the Office of Handicapped Concerns, or a designee;

9. The State Superintendent of Public Instruction, or a designee;

10. The Chancellor of the Oklahoma State Regents for Higher Education, or a designee;

11. The State Director of the Oklahoma Department of ~~Vocational and Technical~~ Career and Technology Education, or a designee;

12. The Director of the Oklahoma Commission on Children and Youth, or a designee;

13. The Director of the Oklahoma Client Assistance Program, or a designee;

14. An individual, appointed by the Governor, with an acquired severe disability;

15. Two individuals, appointed by the Director of the State Department of Rehabilitation Services, representing advocacy organizations for persons with severe disabilities;

16. The Chair of the Oklahoma Traumatic Neurological Injury Advisory Council, or a designee;

17. The Executive Director of the Oklahoma Housing Finance Agency, or a designee;

18. The Director of Oklahoma ABLE Tech, or a designee;

19. A representative from the Adult Protective Services Program within the Department of Human Services, appointed by the Director of Human Services;

20. The Chair of the Statewide Independent Living Council of Oklahoma, or a designee; and

21. The Chair of the Cerebral Palsy Commission, or a designee.

B. 1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint one member of the Task Force to serve as a cochair until June 30, ~~2001~~ 2002. A vacancy in such office shall be filled in the same manner as the

original appointment. A majority of the members of the Task Force shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Task Force. A vacancy on the Task Force shall be filled for the unexpired term in the same manner as the original appointment.

2. Appointments to the Task Force shall be made as soon as reasonably possible after the effective date of this act. The cochairs shall convene and preside over the first meeting as soon as reasonably possible after their appointment. Thereafter, the Task Force may meet once each month and at such other times as set by the cochairs.

3. The proceedings of all meetings of the Task Force shall comply with the provisions of the Oklahoma Open Meeting Act.

C. Members of the Task Force shall receive no compensation for serving on the Task Force, but shall receive travel reimbursement as follows:

1. Legislative members of the Task Force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of ~~Title 74 of the Oklahoma Statutes~~ this title;

2. Nonlegislative members of the Task Force shall be reimbursed by their respective agencies for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act; and

3. Members of the Task Force who are not otherwise officers or employees of the state shall be reimbursed by the Office of the Governor in accordance with the State Travel Reimbursement Act.

D. The Task Force may divide into subcommittees in furtherance of its purposes. The Department of Human Services and the State Department of Rehabilitation Services shall jointly provide such staff support as is required by the Task Force or any of its subcommittees.

E. The Task Force shall issue a report of its findings and recommendations to the Legislature and the Governor on or before ~~January 15, 2001~~ March 15, 2002.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 26th day of February,  
2001.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 10th day of April, 2001.

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Presiding Officer of the Senate

## *ENDNOTES*

1 See: “Policies and Procedures for Special Education in Oklahoma(1993), “July 1993 Public Agency Monitoring Document for Special Education in Oklahoma”, “Technical Assistance Document Annual Program Effectiveness Document for Special Education,” and “July 1993 Guidelines for Compliance Review of Special Education Programs in Oklahoma.”

2 Oklahoma 2000 Single Audit Report for the Fiscal Year Ended June 30, 2000. Prepared by Office of State Auditor & Inspector.

3 Oklahoma 2001 Single Audit Report for the fiscal year ended June 30, 2001. Prepared by Office of State Auditor & Inspector.

4 Additionally, the audit report indicated that the State Auditor’s Office will continue to offer the OSDE assistance in developing its monitoring procedures.

5 34 CFR §300.651(b) Special rule. A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities.

6 The term “children with disabilities” is a defined term under the IDEA and in the context of Part B, refers to those children with disabilities from birth through age 21 who are eligible for services under Part B. March 12, 1990 Federal Register. Vol. 64, No. 48, page 12645.

7 HB 1401 Task Force to Review the Complaint Systems for Children with Disabilities Survey.

8 In May of 2002, some parents are continuing to receive the OSDE draft April 1998 Parents Rights in Special Education Notice of Procedural Safeguards, a version that does not include information regarding written complaints.

9 The OSDE is currently in the process of reviewing its guidelines, rules, and regulations relating to due process hearings. Therefore, it is the hope and expectation of the Subcommittee that the OSDE will seriously consider the recommendations contained in this report. The Subcommittee has taken its work very seriously, and its members have devoted considerable time and effort meeting, reviewing information, and developing its report. The OSDE’s representative on the Subcommittee, John Corpolongo, has been helpful in providing pertinent information which the Subcommittee has reviewed, and Mr. Corpolongo has assured the Subcommittee that its recommendations will be studied and given serious review and consideration by the OSDE.

10 As used in the report, the term “parent” includes natural and adoptive parents as well as legal guardians.

11 For instance, minimum standards established by Texas for its due process hearing officers include: (a) licensed to practice law in the State of Texas; (b) good standing with the State Bar of Texas; (c) engaged in the active practice of law for at least five years, with two years of practice in the areas of special education, disability law, administrative law or civil rights. Preference given to individuals who have acted as administrative law judges or who have been actively involved in contested administrative cases; (d) possess good legal research skills and familiarity with special

education law and administrative law; (e) demonstrate clarity of expression in writing by submitting a legal writing sample of not more than 10 pages. The Texas minimum qualifications and job requirements can be viewed at the Texas Education Agency's website: [www.tea.state.tx.us/special.ed/hearings/officers.html](http://www.tea.state.tx.us/special.ed/hearings/officers.html).

12

For instance, Texas requires hearing officers to attend one-day training seminars at its Education Agency every quarter. In addition, when a hearing officer is initially placed on the roll of qualified hearing officers, he/she must attend orientation training from 1-3 days, depending upon prior experience and must observe at least two hearings prior to being assigned to cases. In the past, the OSDE has made out-of-state continuing training programs available to hearing/appeal officers; however, attendance has been purely voluntary. There is no requirement that hearing officers observe due process hearings before being assigned to a case. And while the OSDE's guidelines provide for attendance of an annual training seminar, it does not appear that the OSDE has enforced the requirement in the past (see Guidelines, Appendix D).

13

For example, between July 1999 and April 2000, the same hearing officer was assigned by the OSDE to 20 of 40 due process hearing requests (including 12 in a row) between November 2, 1999, and March 27, 2000 (see Due Process Hearing Log, FY 1999-2000 attached as Exhibit C). Similarly, between January 1, 1997, and September 1, 2000, 18 of 19 due process appeals (including 14 in a row) were assigned to the same appeal officer, even though the SDE's own Guidelines expressly provide that a rotation system shall be used to assign an appeal officer to a particular case. (See Due Process Hearing Log, attached as Exhibit A, and Due Process in Special Education Guidelines for Parents and School Administrators, at Part X(B)(1)).

14

Dps Nos. 1683, 1680 and 1690. Source: OSDE Due Process Logs.

15

For example, the OSDE's Guidelines provide in what seems to be clear and concise language that the parties must exchange all exhibits which they intend to call at the hearing "at least 5 calendar days before the hearing." (See Guidelines, at p. 4, part III (A)(4)(a) and p. 6, part III (B)(3)(c)). While the intent of this provision appears clear that the exchange must occur before the start of the hearing, the Subcommittee heard reports of two hearing officers who interpreted this provision to permit new exhibits to be introduced after the hearing had begun so long as it was provided to the other side 5 days before its introduction was sought. Not only does this interpretation strain the plain language of the Guideline, but it puts parents at a disadvantage. Since the parents must put on their evidence first, a school district can wait until the initial exchange, see what evidence the parents intend to introduce, and the next day exchange additional exhibits which, under the referenced hearing officer(s)' interpretation, the school district would be free to introduce on the second day of the hearing.

For more information, please visit [www.ohc.state.ok.us](http://www.ohc.state.ok.us)